INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

CASE CONCERNING MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA

(NICARAGUA v. UNITED STATES OF AMERICA)

VOLUME IV

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE DES ACTIVITÉS MILITAIRES ET PARAMILITAIRES AU NICARAGUA ET CONTRE CELUI-CI

(NICARAGUA c. ÉTATS-UNIS D'AMÉRIQUE)

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The case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*), entered on the Court's General List on 9 April 1984 under number 70, was the subject of Judgments delivered on 26 November 1984 (*Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*), *Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984*, p. 392) and 27 June 1986 (*Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*), *Judgment, I.C.J. Reports 1986*, p. 14). Following the discontinuance by the applicant Government, the case was removed from the List by an Order of the Court on 26 September 1991 (*Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*), *Order of 26 September 1991, I.C.J. Reports 1991*, p. 47).

The pleadings and oral arguments in the case are being published in the following order:

Volume I. Application instituting proceedings; request for the indication of provisional measures and consequent proceedings; Memorial of Nicaragua (Jurisdiction and Admissibility).
Volume II. Counter-Memorial of the United States of America (Jurisdiction and Admissibility); Declaration of Intervention by El Salvador and observations thereon by Nicaragua and the United States of America.
Volume III. Oral arguments on jurisdiction and admissibility; exhibits and documents submitted by Nicaragua and the United States of America in connection with the oral procedure on jurisdiction and admissibility.
Volume IV. Memorial of Nicaragua (Merits); supplemental documents.
Volume V. Oral arguments on the merits; Memorial of Nicaragua (Compensation); correspondence.

In internal references bold Roman numerals refer to volumes of this edition; if they are immediately followed by a page reference, this relates to the new pagination of the volume in question. On the other hand, the page numbers which are preceded or followed by a reference to one of the pleadings only relate to the original pagination of the document in question, which, if appropriate, is represented in this edition by figures within square brackets on the inner margin of the relevant pages.

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L'affaire des *Activités militaires et paramilitaires au Nicaragua et contre celui-ci* (*Nicaragua* c. *Etats-Unis d'Amérique*), inscrite au rôle général de la Cour sous le numéro 70 le 9 avril 1984, a fait l'objet d'arrêts rendus le 29 novembre 1984 (*Activités militaires et paramilitaires au Nicaragua et contre celui-ci* (*Nicaragua* c. *Etats-Unis d'Amérique*), *compétence et recevabilité, arrêt, C.I.J. Recueil 1984*, p. 392) et le 27 juin 1986 (*Activités militaires et paramilitaires au Nicaragua et contre celui-ci* (*Nicaragua* c. *Etats-Unis d'Amérique*), *arrêt, C.I.J. Recueil 1986*, p. 14). A la suite du désistement du gouvernement demandeur, elle a été rayée

du rôle par ordonnance de la Cour du 6 septembre 1991 (*Activités militaires et paramilitaires au Nicaragua et contre celui-ci (Nicaragua c. Etats-Unis d'Amérique), ordonnance du 26 septembre 1991, C.I.J. Recueil 1991*, p. 47).

Les pièces de procédure écrite et les plaidoiries relatives à cette affaire sont publiées dans l'ordre suivant :

Volume I. Requête introductive d'instance ; demande de mesures conservatoires et procédure y relative ; mémoire du Nicaragua (compétence et recevabilité).
Volume II. Contre-mémoire des Etats-Unis d'Amérique (compétence et recevabilité) ; déclaration d'intervention d'El Salvador et observations du Nicaragua et des Etats-Unis d'Amérique sur cette déclaration.
Volume III. Procédure orale sur les questions de compétence et recevabilité; documents déposés par le Nicaragua et les Etats-Unis d'Amérique aux fins de la procédure orale relative à la compétence et à la recevabilité.
Volume IV. Mémoire du Nicaragua (fond); documents additionnels.
Volume V. Procédure sur le fond; mémoire du Nicaragua (réparation); correspondance.

S'agissant des renvois, les chiffres romains gras indiquent le volume de la présente édition : s'ils sont immédiatement suivis par une référence de page, cette référence renvoie à la nouvelle pagination du volume concerné. En revanche, les numéros de page qui ne sont précédés ou suivis que de la seule indication d'une pièce de procédure visent la pagination originale du document en question, qui, en tant que de besoin, est reproduite entre crochets sur le bord intérieur des pages concernées.

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MEMORIAL OF NICARAGUA
(MERITS)

MÉMOIRE DU NICARAGUA
(FOND)

PART I

THE FACTS AND THE EVIDENCE

CHAPTER I

THE FACTS

Section I. Prior Proceedings in this Case

1. On 9 April 1984, Nicaragua filed its Application in the Court charging the United States with military and paramilitary activities in and against Nicaragua in violation of United States obligations under the Charters of the United Nations and the Organization of American States and under general and customary international law. The Application asked the Court for a declaration that the United States activities were unlawful, an order to the United States to cease and desist, and compensation. In addition, Nicaragua requested the indication of interim measures of protection under Article 41 of the Statute of the Court.

2. On 25 and 27 April 1984, the Court heard oral observations on the request for interim measures of protection. Thereafter, by its Judgment of 10 May 1984, the Court indicated provisional measures.

3. Pursuant to an Order of the Court of 14 May 1984, written and oral proceedings were conducted on the preliminary issues of jurisdiction and admissibility. In its Judgment of 26 November 1984, the Court held that it had jurisdiction to entertain the Application on the basis of Article 36, paragraphs 2 and 5, of the Statute of the Court, and also by virtue of the compromissory clause in the Treaty of Friendship, Commerce and Navigation between the United States and Nicaragua of 21 January 1956. The Court also held that the Application was admissible.

4. The United States announced, on 18 January 1985, that it would not participate further in this case. Thereafter, Nicaragua, pursuant to Article 53 of the Statute of the Court, called upon the Court to decide the case despite this failure of the Respondent to appear and defend. By Order of 22 January 1985, the Court set 30 April 1985 as the date for submission of Nicaragua's Memorial.

5. This Memorial is submitted in accordance with the terms of the Order of 22 January 1985.

Section II. Introduction and Summary

6. The United States of America is using armed force against Nicaragua and intervening in Nicaragua's internal affairs, in violation of Nicaragua's sovereignty, territorial integrity and political independence and of the most fundamental and universally accepted principles of international law. United States armed forces and intelligence personnel have mined Nicaragua's ports and conducted air and naval attacks on targets within the territory of Nicaragua and within its territorial waters, including attacks on oil storage tanks, pipelines, port facilities and merchant ships.

7. The United States has also created an army of more than 10,000 mercenaries — many of whom served the former dictator Anastasio Somoza Debayle — installed them in base camps in Honduras along the border with Nicaragua, trained them, paid them, supplied them with arms, ammunition, food and medical supplies, and directed their attacks against human and economic targets inside Nicaragua. The United States has acknowledged spending more than US$70,000,000 on these illegal activities since 1981.

8. Nicaragua has already suffered and is now suffering grievous consequences as a result of these activities:

- more than 2,600 Nicaraguans have been killed by United States military and intelligence forces and the mercenary "army" created by the United States;
- more than 5,500 have been maimed, wounded, raped or kidnapped;
- more than 150,000 people have been driven from their homes, including more than 20,000 residents of the port of Corinto who had to be evacuated when oil storage facilities were set aflame by rockets in an attack planned and carried out by United States military forces;
- thousands of others have suffered as a result of the deliberate destruction of farms, bridges, airports, pipelines, power stations, schools and hospitals inside Nicaragua. The cost to Nicaragua solely in damages to capital facilities and production has exceeded US$378,200,000.

9. These activities are continuing as this Memorial is filed. Notwithstanding the Court's Order of 10 May 1984 on interim measures of protection, the United States military and paramilitary activities against Nicaragua have continued unabated. More Nicaraguans are being killed and injured, and more destruction of property is taking place. As a consequence of these continuing violations the situation remains critical. The Government of Nicaragua faces a long-term program of coercion, murder, and rapine, intended to culminate in its forcible over throw. For these reasons, Nicaragua would respectfully remind the Court that these proceedings continue to have an urgency rarely if ever seen in international litigation.

10. The United States has publicly accepted responsibility for these illegal activities. The military and paramilitary operations in Nicaragua are openly and expressly authorized by an Act of the Congress of the United States. In December 1983, at the urging of the President and after receiving a full report on the extent of the activities, the United States Congress enacted the Intelligence Authorization Act for fiscal year 1984, Section 108 of which provides:

> "During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activity may be obligated or expended for the purpose of which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual." (Ann. D, Attachment 4.)

To continue and to further escalate these activities, President Reagan is urging the Congress — as this Memorial is being prepared — to appropriate an additional $28,000,000 for use during fiscal year 1986 (1 October 1985-30 September 1986). (*WP* 4/19/85.)[1]

---

[1] Abbreviations used in the citations to periodicals are as follows: *NYT* for the *New York Times*; *WP* for the *Washington Post*; *WSJ* for the *Wall Street Journal*; *BG* for the *Boston Globe* and *LAT* for the *Los Angeles Times*. The cited articles are included in Annex F, "Press Disclosures of Statements by United States Officials and Others". Each citation to a periodical includes the month, day and year (in that order) of the issue in which it appeared.

11. At first, these activities were undertaken secretly — "covertly", in United States official parlance. The object was not to conceal them from Nicaragua, which could not be unaware of repeated attacks across its own borders. Rather, the object was to hide the involvement of the United States from its own people and from the world. This is itself an acknowledgment that these activities cannot withstand legal or public scrutiny. Even today, the full details of United States actions are not disclosed, except to special congressional oversight committees. But, of course, an operation the size of the United States-sponsored intervention in Nicaragua could not remain hidden for long. As stated by the Minority Leader of the United States House of Representatives, Mr. Robert Michel:

> "This is called covert aid. Right now it is about as covert as an elephant standing on a football field. Everybody knows it is there and calling it covert does not hide it." (129 *Cong. Rec.* H 5738 (27 July 1983), Ann. E, Attachment 3.)

12. The objective of the United States activities against Nicaragua is to overthrow the Nicaraguan Government. This has been true from the outset and was publicly acknowledged as early as July 1983, when the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, which oversees the "covert activities" against Nicaragua, reported to his fellow legislators that "the purpose and the mission of the operation was to overthrow the Government of Nicaragua" (129 *Cong. Rec.* H 5748 (27 July 1983), Ann. E, Attachment 3).

4. *Developments Since the Court's Judgment of 26 November 1984*

13. After Nicaragua filed its Application against the United States in this Court, on 9 April 1984, the United States took the position, for the first time, that its military and paramilitary activities against Nicaragua were for the purpose of "collective self-defense". During the proceedings on interim measures of protection, and on jurisdiction and admissibility, the United States alleged, without submitting proof, that its actions were in response to an "armed attack" by Nicaragua against other Central American States. The United States publicly maintained this position until 18 January 1985, when it announced its decision not to participate any further in the case. Since then, references to self-defense have all but disappeared from official statements. The United States has dropped the pretense that its use of force against Nicaragua was for the purpose of "collective self-defense". President Ronald Reagan and other senior United States officials have publicly acknowledged in clear and unequivocal terms that the purpose of the United States activities against Nicaragua was the removal of the present Nicaraguan Government, formation of a new government to include the mercenaries supported by the United States, and far-reaching changes in the internal Nicaraguan political system.

14. On 21 February 1985, President Reagan responded as follows to questions posed during a nationally televised news conference:

> "*Q.* Mr. President, on Capitol Hill — on Capitol Hill the other day, Secretary Shultz suggested that a goal of your policy now is to remove the Sandinista government in Nicaragua. Is that your goal?
>
> *The President.* Well, removed in the sense of its present structure, in which it is a communist totalitarian state, and it is not a government chosen by the people. So, you wonder sometimes about those who make such claims as to its legitimacy. We believe, just as I said Saturday morning, that we

> have an obligation to be of help where we can to freedom fighters and lovers of freedom and democracy, from Afghanistan to Nicaragua and wherever there are people of that kind who are striving for that freedom . . .
>
> *Q.* Well, Sir, when you say remove it in the sense of its present structure, aren't you then saying that you advocate the overthrow of the present government of Nicaragua?
>
> *The President.* Well, what I'm saying is that this present government was on[e] element of the revolution against Somoza. The freedom fighters are other elements of that revolution. And once victory was attained, the Sandinistas did what Castro had done, prior to their time, in Cuba. They ousted and managed to rid themselves of the other elements of the revolution and violated their own promise to the Organization of American States, and as a result of which they had received support from the Organization, that they were their revolutionary goal was for democracy, free press, free speech, free labor unions, and elections, and so forth, and they have violated that.
>
> And the people that are fighting them, the freedom fighters opposing them, are Nicaraguan people who want the goals of the revolution restored. And we're going to try to help.
>
> *Q.* Is the answer yes, Sir? Is the answer yes, then?
>
> *The President.* To what?
>
> *Q. To the question, aren't you advocating the overthrow of the present government?* If . . . you substitute another form of what you say was the revolution?
>
> *The President. Not if the present government would turn around and say, all right, if they'd say, 'Uncle'.* All right, come on back into the revolutionary government and let's straighten this out and institute the goals." (Official Transcript, pp. 183-184, *infra*, Ann. C, Attachment I-14 (emphasis added.))

To "say uncle" is a common colloquial expression in the United States, which is formally defined as: "to give up in defeat"[2].

15. On 11 March 1985, President Reagan was asked how he could justify "helping to overthrow a government merely because we don't like its political coloration". He replied:

> "Well, they call themselves a government . . . I think we have to ignore this pretense of an election they just held. This is not a government. This is a faction of the revolution that has taken over at the point of a gun. And under the United Nations Charter and the Charter of the Organization of American States, there is every reason for us to be helping the people that want the original goals of the revolution instituted." (Interview by *Business Week*, 3/11/85, Ann. C, Attachment I-16.)

16. On 3 April 1985, in a report to the Congress entitled "US Support for the Democratic Resistance Movement in Nicaragua", President Reagan again emphasized that the objective of United States military and paramilitary activities against Nicaragua was to pressure the Nicaraguan Government to make drastic changes in its own structure and in its domestic political system. (Ann. C, Attachment III-5.) The report urged the Congress to appropriate $14,000,000 during fiscal year 1985 for

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[2] See, e.g., *Oxford American Dictionary* (Oxford University Press, 1980, p. 748).

> "resumption of aid to the Nicaraguan armed resistance at levels sufficient to create real pressure on the Government of Nicaragua (20,000- to 25,000-man insurgent force in the north and 5,000- to 10,000-man force in the south)" (*NYT* 4/17/85)[3].

The pressure from such a force, President Reagan said, would convince

> "the Sandinista leadership that it has no alternative to ... [the] acceptance of the March 1 Peace Proposal[4] and establishment of a legitimately pluralistic democratic political structure" (Ann. C, Attachment III-5, p. 236, *infra*).

17. On 4 April 1985, President Reagan proposed a cease-fire for 60 days, and negotiations, mediated by the Nicaraguan bishops, for internationally supervised elections and other changes in the Government of Nicaragua. During that period, assistance to the mercenaries would not be used for arms or munitions. "If there is no agreement within 60 days, I will lift these restrictions unless both sides ask me not to." (Official Transcript, p. 189, *infra*, Ann. C, Attachment I-19.) Nicaragua rejected this proposal as an unlawful intervention in its own internal affairs. President Belisario Betancur of Colombia, to whom the United States had presented its proposal as a representative of the Contadora Group[5] called it "a preparation for war" (*NYT* 4/16/85; *NYT* 4/17/85). President Betancur said that "any foreign support to guerrilla groups, whatever the origin, is clearly in opposition to the prevailing doctrine in Latin America regarding foreign intervention in the internal affairs of our continent" (*NYT* 4/16/85).

18. Secretary of State George P. Shultz also said, in testimony to the House of Representatives Committee on Foreign Affairs:

> "what we have in Nicaragua is a government that's a bad-news government. Now, how can that get changed? We'd like to see them change. But they don't seem inclined to do so. So we have followed these alternatives and we will continue to follow these alternatives." (*WP* 2/20/85; *NYT* 2/20/85.)

19. The United States now admits, indeed, it openly proclaims, that its purpose is to overthrow the Nicaraguan Government. Although Nicaragua maintains that this purpose motivated the United States from the inception of its use of force against Nicaragua in 1981, what is new since the last time the parties appeared before the Court is this public United States admission, at the highest levels of government, that it is and has been engaged in an effort to overthrow the Nicaraguan Government. The recent statements from the highest officials of the United States Government demonstrate that there is no longer even the slightest effort to justify United States military and paramilitary activities against Nicaragua as "collective self-defense". It must now be taken as uncontroverted

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[3] As explained in the *New York Times* article, the version of the report released to the public, Annex C, Attachment III-5, did not contain all of the information contained in the report submitted to Congress. The non-public information, however, is summarized in the *New York Times* article.

[4] The "March 1 Peace Proposal", put forth by mercenary leaders, called upon the Government of Nicaragua to invalidate the Nicaraguan elections of November 1984, dissolve the National Assembly, hold new national elections under "international supervision", disband all neighborhood Sandinista party organizations and completely reorganize the Nicaraguan political system. (*WP* 4/15/85; Ann. C, Attachment III-5, pp. 231-232, *infra*.)

[5] The "Contadora Group" is comprised of Mexico, Colombia, Venezuela and Panama, nations that have jointly sponsored multilateral negotiations among the five Central American States.

that the activities of the United States challenged by Nicaragua's Application, and described in detail below, have been and continue to be for the purpose of overthrowing the Government of Nicaragua.

B. The Future Intentions of the United States

20. The United States has made clear its intention to continue indefinitely to use armed force against Nicaragua, to intervene in Nicaragua's internal affairs and, in the process, to inflict increasing harm to Nicaraguan lives and property. Pursuant to a concerted program commencing in March 1981, when President Reagan first authorized "covert activities" of a military and paramilitary nature against Nicaragua, the United States has steadily escalated the size and destructiveness of its operations. According to official reports provided to the United States Congress, in November 1981 President Reagan authorized the Central Intelligence Agency to recruit, train, supply and direct a 1,500-man mercenary force to conduct hit-and-run raids against selected Nicaraguan targets; $19,950,000 was then allotted for such purposes. By December 1982, an additional $30,000,000 had been allocated to the program, the force had grown to 4,000 men and the attacks against Nicaraguan territory were occurring on an almost daily basis. By February 1983, the force had grown to 5,500 men; by May 1983, to 7,000; and by July 1983, to 10,000. By the spring of 1983, the hit-and-run raids had grown to large-scale assaults intended to capture portions of Nicaraguan territory and establish a "provisional government".

21. In September 1983, President Reagan authorized a further expansion of the force to 12,000-15,000 men, and a shift in tactics to emphasize destruction of vital economic "targets". Another $24,000,000 was appropriated to finance these activities. United States armed forces and intelligence personnel then began to carry out air and naval attacks against designated Nicaraguan economic installations. More than 19 such attacks were carried out in the first three months of 1984. During the same period, United States armed forces and intelligence personnel placed hundreds of mines in Nicaragua's three main ports: Corinto, Puerto Sandino and El Bluff. At least 10 ships — five from third States — were damaged or destroyed by exploding mines, and Nicaragua's capacity to carry on peaceful maritime commerce was seriously impaired.

22. In 1984 a supplemental source of funding for these activities was introduced. Private individuals and groups within the United States were encouraged by the United States Administration to contribute financial and material support to the mercenary army. More than $5,000,000 was raised in this manner, and private "volunteers", encouraged and assisted by the Administration, began to provide training and combat support for the mercenaries.

23. During 1984, attacks by mercenary forces and United States personnel resulted in 1,265 Nicaraguans killed, and in destruction of capital facilities and production valued at more than $180,000,000. These figures were significantly higher than in any previous year.

24. Now President Reagan has asked the Congress to appropriate another $28,000,000 to carry on the military and paramilitary activities against Nicaragua through at least 30 September 1986. At a recent news conference President Reagan stated that the United States will continue to support its mercenary army even if the Congress does not appropriate more funds. When asked, "if the Congress refused to appropriate more funds, would you look for some other avenues to help the contras, some other way to continue your desire to see a restructuring of the Nicaraguan government", President Reagan responded:

"We're not going to quit and walk away from them no matter what happens." (Official Transcript, p. 190, *infra*, Ann. C, Attachment I-19.)

25. In his 3 April report to the Congress on "US Support for the Democratic Resistance Movement in Nicaragua", President Reagan said:

> "Direct application of United States military force. . . . must realistically be recognized as an eventual option, given our stakes in the region, if other policy alternatives fail." (*NYT* 4/17/85.)[9]

Section III. Statement of Facts

26. The following is a detailed chronological account, based on the evidence before the Court, establishing the full scope of the use and threat of force by the United States against Nicaragua, and the responsibility of the United States for the damage and destruction caused by its military and paramilitary activities against Nicaragua during the past four years. The account is drawn from public statements by President Reagan and senior officials of the United States Administration; official documents prepared by the Administration for its own use in planning and carrying out these activities; official reports of committees of the United States Congress responsible for overseeing these activities; recorded statements by senior members of those committees during legislative debates; and United States domestic legislation appropriating funds for the activities. The account of events inside Nicaragua is drawn from the official record of attacks against Nicaragua maintained by the Ministry of the Interior of the Republic of Nicaragua.

27. Some of these facts were presented to the Court in the Chronological Appendix to Nicaragua's Application of 9 April 1984. Since then, much new evidence on these matters has become available and is included below. Events from April 1984 to April 1985 are also set forth.

28. It should also be recalled that the military and paramilitary activities described took place against a background of economic pressures also designed to destabilize and coerce the Government of Nicaragua. Among these measures are the termination of all bilateral economic assistance to Nicaragua on 1 April 1981, the 90 per cent reduction of the Nicaraguan sugar quota for export to the United States in May 1983, and interventions by the United States into the deliberations of multinational lending institutions for the purpose of blocking critically needed economic development loans to Nicaragua. On 30 January 1985, Secretary of State George P. Shultz wrote to Dr. Antonio Ortiz Mena, President of the Inter-American Development Bank, urging that the Bank refuse credits to Nicaragua notwithstanding Nicaragua's satisfaction of the Bank's technical and economic criteria. (Ann. C, Attachment II-10.) In all, this and similar interventions have deprived Nicaragua of more than $200,000,000 in loans from lending institutions.

29. On *9 March 1981*, less than two months after assuming the office of President of the United States, President Reagan made a formal "presidential finding", authorizing the Central Intelligence Agency (CIA) to plan and undertake "co-

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[9] There is no legal requirement that the President obtain the prior consent of the Congress to introduce United States Armed Forces into a combat situation in a foreign territory. See War Powers Resolution, Title 50, United States Code, Sections 1541-1548, Ann. D, Attachment 1.

vert activities" directed against Nicaragua. As required by Title 50 of the United States Code, Section 413 *(a)*, the "presidential finding" was promptly communicated to the two committees of the United States Congress that oversee all United States sponsored "covert activities", the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives[7]. The purpose of the covert activities was to destabilize the Government of Nicaragua and so weaken it that it would be compelled to alter its domestic and foreign policies. Organized military and paramilitary activities against Nicaragua began soon thereafter.

30. At first, the CIA conducted these activities through existing armed bands of former officers and enlisted men of the Nicaraguan National Guard, the military force of the régime of General Anastasio Somoza Debayle. When that régime was overthrown in July 1979, many National Guardsmen fled across the border to Honduras. In 1981, some units were still together in encampments just inside Honduran territory. With CIA direction and support, the former National Guardsmen began conducting raids on civilian settlements, local militia outposts and army patrols inside Nicaragua. Because these activities had little or no effect on the Nicaraguan Government, the CIA was instructed to prepare a plan for expanded, more systematic and more aggressive military and paramilitary activities against Nicaragua.

31. In *November 1981*, the CIA presented its plan to the President. The plan called for the creation of an army of mercenaries, to be financed, trained, armed, supplied and directed by the United States. The mission of the mercenary army would be to conduct armed attacks on military, civilian and critical economic targets inside Nicaragua and to harass the Nicaraguan Government. The first stage of the CIA plan called for creation of a force of 1,500 men. The core of the mercenary force would be the former National Guardsmen with whom the CIA had already begun working. Prior to presentation of the plan, Lieutenant General Vernon A. Walters, an adviser to President Reagan and previously Deputy Director of the CIA, had met in Honduras with the leaders of these Guardsmen and obtained their commitment to unite into a single force under United States direction and control in return for arms, training, supplies, financing and other support. CIA Director William Casey had also met, in Washington, with General Leopoldo F. Galtieri, then Chief of Staff and later President of Argentina, and secured General Galtieri's commitment to send Argentine military officers to Honduras to train the mercenary force. It was agreed that the expenses of the Argentines would be paid by the CIA. (*NYT* 3/19/85; *LAT* 3/3/85; *WP* 3/10/82; *WP* 5/8/83; see also *WP* 12/16/84.)

32. On *12 November*, while the CIA plan was under consideration by the President, Secretary of State Alexander Haig was asked in a hearing before the Committee on Foreign Affairs of the House of Representatives for an assurance that the United States would not become involved in attempts to destabilize or overthrow the Nicaraguan Government. He responded: "No, I would not give you such an assurance." (Hearing before the Committee on Foreign Affairs,

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[7] United States law provides that the Central Intelligence Agency may not engage in "operations" in foreign countries (except as necessary to gather intelligence) unless and until the President makes a finding that each such operation is important to the national security of the United States. (22 United States Code, Section 2422.) In addition, the President must fully inform the Committees on Intelligence of the United States Senate and House of Representatives of any such operations. (50 United States Code, Section 413, Ann. D, Attachment 2.)

House of Representatives, 97th Cong., 1st Sess. 21 (12 Nov. 1981), Ann. C, Attachment II-1; *WP* 11/13/81.)

33. On *16 November 1981*, at a meeting of the National Security Council, President Reagan expressly approved the CIA plan, and on *23 November* he signed National Security Decision Directive 17 to that effect. An accompanying classified document explained that $19,950,000 would be allocated to the CIA for the 1,500-man force, but that "more money and more manpower will be needed". The document further explained that the CIA would:

> "build popular support in Central America and Nicaragua for an opposition front that would be nationalistic, anti-Cuban and anti-Somoza; support the opposition front through formation and training of action teams to collect intelligence and engage in paramilitary and political operations in Nicaragua and elsewhere; work primarily through non-Americans to achieve the foregoing, but in some circumstances the CIA might — possibly using United States personnel — take unilateral paramilitary action." (*WP* 3/10/82; *WP* 4/3/83.)

34. On *1 December 1981*, President Reagan issued a second "presidential finding" regarding Nicaragua, formally authorizing the "covert activities" approved at the 16 November National Security Council meeting. Again, in accordance with United States domestic law, the intelligence committees of both chambers of Congress were informed of the "finding". However, the committees were officially told only that the CIA would create a paramilitary force of 500 men and that this force would be used solely to interdict alleged arms traffic from Nicaragua to guerrillas in El Salvador and to strike at alleged Cuban military installations in Nicaragua. (*WP* 2/14/82; *WP* 3/10/82; *NYT* 3/14/82, 3/28/82; *Newsweek* 11/8/82; *LAT* 3/3/85.) When these events were later revealed in the *Washington Post*, among other periodicals, Senator Barry Goldwater who, as Chairman of the Senate Select Committee on Intelligence received regular CIA briefings on the anti-Nicaragua activities, said: "Everything in the *Post* story was true. They didn't have everything, but everything they had is true." (*Time* 3/22/82.)

35. To organize and direct the military and paramilitary activities in and against Nicaragua, CIA Director William Casey appointed Duane Clarridge, a career CIA official who was then serving as chief of the Latin American division of the CIA's Directorate of Operations. The activities were subject to overall supervision by a "restricted interagency group" headed by the Assistant Secretary of State for Interamerican Affairs, initially Thomas O. Enders and later Langhorne A. Motley. Other members of the group were General Paul F. Gorman, representing the Joint Chiefs of Staff, who later became Commander in Chief of the United States Southern Command based in Panama and was replaced by Vice Admiral Arthur Moreau; Lt. Col. Oliver North, a Marine officer with extensive paramilitary experience who served on the National Security Council staff; and the CIA's Clarridge. (*WSJ* 3/5/85; see also *LAT* 3/3/85.) The day-to-day conduct of the military and paramilitary activities themselves belonged mainly to CIA Director Casey and Clarridge. A United States intelligence officer said: "It's really Casey's war." (*WP* 12/16/84.)

36. Thereafter, the CIA station in Tegucigalpa, Honduras, quickly grew to approximately 25 officers under a new station chief. CIA Director Casey and Clarridge made frequent visits to the area. (*LAT* 3/4/85; see also *WP* 12/16/84.) Under the supervision of the Tegucigalpa station, the mercenary force was recruited and trained. Those chosen to be "officers" in this paramilitary army were given special training at a military base in Lepaterique. Members of the

force were given five-week training courses at base camps in southern Honduras just across the border from Nicaragua. The training included basic infantry and weapons instruction, but also focused heavily on sabotage, use of explosives and demolition of bridges, dams, power stations and other structures. A special group of Miskito Indians were taken to Vivorillo, a small island off the east coast of Honduras, and trained in underwater operations, including the demolition of underwater pipelines and port facilities. All weapons, explosives and other military equipment were supplied by the United States. Each member of the force received a regular salary for his services from the United States. (*NYT* 4/3/83; *Time* 12/6/82; *LAT* 3/4/85.)

37. In *December 1981*, these mercenary forces began to carry out hit-and-run attacks against targets inside Nicaragua, always returning to their base camps in Honduras. The frequency, intensity and destructiveness of these attacks grew rapidly. (Affidavit of Commander Luis Carrion, Ann. A, Exhibit A (hereafter "Carrion Affidavit").)

38. On *8 December 1981*, CIA-trained mercenaries invaded the community of La Esperanza, ordering the inhabitants to cross over to Honduras and threatening those who refused with death. (Carrion Affidavit, Ann. A, Exhibit A, p. 136, *infra*.)

39. On *14 December 1981*, CIA-trained mercenaries attacked the Nicaraguan town of San Carlos in Zelaya Norte province, kidnapped 12 persons, and took them back to base camps in Honduras where they were killed. (*Ibid.*)

40. On *28 December 1981*, mercenary forces kidnapped four people from the community of Bilwaskaima, including a woman doctor and a nurse. The mercenaries took the women to Honduras, where they were gang-raped. (*Ibid.*)

41. On *2 January 1982*, a mercenary force of 60 men attacked the town of Raiti, and killed three Nicaraguans. The same day a force of 45 men attacked the town of Limbaica, stole two boats, vehicles, and equipment and then burned a bridge at Alamikamba. (*Ibid.*)

42. In early *February 1982*, mercenaries attacked the Nicaraguan border post at Las Brisas in Nueva Segovia province, killing three border guards. Later in February, similar mercenary units attacked the border post at Mata de Platano. (*Ibid.*)

43. On *14 March 1982*, a CIA-trained and equipped demolition team crossed into Nicaragua and blew up two vital bridges, at Rio Negro in Chinandega province and Ocotal in Nueva Segovia. (*Ibid.*) In a briefing to members of the Permanent Select Committee on Intelligence of the House of Representatives in May 1982, CIA officials acknowledged the CIA's responsibility for the destruction of the two bridges. (*WP* 5/8/83; see also *LAT* 3/4/85.) Indeed, after the destruction of the bridges, a United States intelligence officer stated, "there was great enthusiasm in the CIA and in the Administration . . . We are finally bringing pressure to bear on the Sandinistas" (*LAT* 3/4/85).

44. This purpose is also reflected in contemporaneous official documents, which were circulated within the United States Administration to report on the military and paramilitary activities against Nicaragua and serve as a basis for policy and operational decisions. An *April 1982* National Security Council "Summary Paper", which served as the basis of a meeting of the United States National Security Planning Group, reported that: "In Nicaragua, the Sandinistas are under increased pressure as a result of our covert efforts." ("United States Policy in Central America and Cuba through F.Y. '84, Summary Paper", Ann. C, Attachment III-1.)

45. A 16 July 1982 "Weekly Intelligence Summary", circulated within the United States Administration by the Defense Intelligence Agency, described the attacks in and against Nicaragua during this period as follows:

> "Activity Since 14 March. On 14 March, insurgents initiated new wave of guerrilla activity by sabotaging two important bridges in the northwest near the Honduras border . . . Concurrently, guerrilla activity in the northeast and along the Honduran border heightened, and security forces were confronted with a series of small scale insurgent attacks that have continued unabated . . ." (Ann. C, Attachment III-2.)

46. This report also stated that in the 100-day period between 14 March and 21 June 1982, at least 106 armed attacks occurred within Nicaragua. It described these attacks as falling into the following categories:

> sabotage of highway bridges and attempted destruction of fuel tanks at a military facility;
> sniper fire and attacks against small military patrols;
> attacks by small armed bands on Nicaraguan soldiers;
> assassination of Nicaraguan government officials and a Cuban adviser;
> burning of a customs warehouse, buildings belonging to the Ministry of Construction, and crops. (*Ibid.*)

47. On *4 July 1982*, a group of mercenaries attacked the village of Seven Bank. The attack resulted in 14 Nicaraguan dead. (Carrión Affidavit, Ann. A, Exhibit A, p. 137, *infra*.)

48. On *16 July 1982*, a 60-man force raided the village of San Fernando, in Nueva Segovia, killing a villager, kidnapping four peasants and burning government offices before withdrawing to Honduras. (*Ibid.*)

49. On *24 July 1982*, a mercenary force supported by heavy artillery attacked the village of San Francisco del Norte, Chinandega province. In this particularly brutal raid, the mercenaries opened fire indiscriminately on the villagers, killing 14 of them, wounding 4 more and kidnapping 8 others and taking them back to Honduras. Four more Nicaraguans were killed pursuing the attackers. (*Ibid.*)

50. In *August 1982*, CIA officials reported to the congressional intelligence committees that the United States was then supporting a 1,500-man mercenary force based in Honduras, and that the force was regularly carrying out hit-and-run raids on Nicaraguan military and economic targets. The committees were also informed that arms and other military equipment were provided to this force by the United States through Honduran military depots and that the United States was paying each member of the force a basic monthly wage. (*WP* 5/8/83.)

51. While these attacks were taking place, the United States sent more of its own military personnel into the region for the ostensible purpose of holding joint military maneuvers with Honduras. Much of the military equipment flown in for the joint maneuvers was turned over to the mercenary units when the maneuvers ended. (*NYT* 4/3/83.)

52. Subsequently, the CIA recommended and President Reagan authorized a manifold increase in the size of the mercenary army and a corresponding expansion of its activities. In addition, the United States decided to move a substantial number of mercenary units from their Honduran base camps to new camps inside Nicaragua, where, it was felt, they would be able to carry out more aggressive and more ambitious attacks on Nicaraguan targets. To accomplish these ends, and to sustain the increased force, an additional $30,000,000 was allocated to the program (*WP* 5/8/83; *WSJ* 5/5/83).

53. To make the mercenary force appear more attractive to members of the congressional intelligence committees who were beginning to question the purpose

and effectiveness of the operation, the United States Administration selected a seven-member "political directorate", some of whom were not known to have previous ties to the Somoza regime or the National Guard, and began to refer to the mercenaries as the "Nicaraguan Democratic Force" (or FDN, by its Spanish acronym). (*NYT* 3/18/85; *WP* 2/28/85; *WP* 11/27/84.) One of those selected, Edgar Chamorro, was approached in Miami, where he was then living, by the head of the CIA's office in that city. The CIA official told Chamorro "he was speaking on behalf of the President of the United States, who was very interested in getting rid of the Sandinistas" (*WP* 11/27/84). Chamorro was selected for the "political directorate", he was told, because the CIA needed "people who they could sell to Congress" in order to maintain its support for the "covert activities". "They were trying to repackage the FDN for Congress", Chamorro said, "and I was not a Somocista." Chamorro agreed to his appointment for $1,500-$2,000 per month. (*NYT* 11/1/84; see also *WP* 12/17/84; *WP* 2/28/85; *WSJ* 3/5/85.)

54. By *December 1982*, CIA recruitment efforts had swelled the mercenary force to 4,000 men, according to the CIA's report to the congressional intelligence committees that month. (*WP* 5/8/83.) The committees were also informed that the CIA had not succeeded in its efforts to minimize dependence on National Guardsmen who had served the Somoza régime. In fact, the CIA reported, the force was dominated by former Somoza loyalists. This was necessary, the congressional committees were told, because the "Somocistas" were the only ones willing to fight against the Nicaraguan Government. (*WP* 5/8/83; see also Report of the Permanent Select Committee on Intelligence, p. 243, *infra*, Ann. I, Attachment 1.)

55. Mercenary units then began to be moved into Nicaragua, together with their weapons and supplies. The largest single infiltration of this period took place on *30 December*, when five columns, each consisting of 125 Miskito Indians, crossed from Honduras into eastern Nicaragua, and headed in the direction of Puerto Cabezas, a strategic seaport on Nicaragua's Atlantic Coast. Their mission was to capture the port and hold it until reinforcements arrived and a "provisional government" consisting of mercenary leaders could be installed. (*NYT* 4/3/83.)

56. In *early January 1983*, as a prelude to the effort to seize Puerto Cabezas, a team of Miskito Indians, trained by the CIA in underwater demolition tactics at the Vivorillo base, sabotaged key port installations. (*NYT* 4/3/83.) The effort to capture the port failed, however, when Nicaraguan armed forces intercepted the main component of the attack force and caused it to disband. Other mercenary units concentrated their attacks on agricultural workers and other Nicaraguan civilians, in an effort to disrupt production and create panic among the population. For example, on *18 January 1983*, a unit attacked a truck filled with coffee pickers in Namasli, Nueva Segovia. Two children were killed and several adults were wounded. ("Attacks by Nicaraguan 'contras' on the Civilian Population of Nicaragua", Ann. I, Attachment 2.)

57. As the size and aggressiveness of the mercenary army grew, so did the number of United States personnel directly involved with them. By the *beginning of 1983*, there were more than 125 CIA operatives in Honduras. Approximately 50 of them were full-time CIA employees under diplomatic or other official cover. (*Miami Herald* 12/19/83.) The rest, some of whom were recalled from retirement, worked for the CIA on a contract basis. United States military personnel were also directly involved in the "covert activities" against Nicaragua. At least 15 United States Air Force pilots and technicians based in Honduras conducted reconnaissance flights using two Beechcraft Queen Air twin-engine airplanes with electronic equipment. They provided regular intelligence reports

on the movements and placement of Nicaraguan military units and equipment. (*NYT* 4/3/83.) United States Ambassador to the United Nations Jeanne Kirkpatrick acknowledged during a United Nations Security Council debate that the United States conducted regular reconnaissance flights over Nicaraguan territory. (37 UN *SCOR* (2335th mtg.), p. 48, UN doc. S/PV.2335/Corr. 1 (1982).)

58. In addition to these direct activities by United States military personnel, United States forces participated, in early *February 1983*, in another round of joint military maneuvers with Honduran armed forces. These maneuvers, conducted near the Honduras-Nicaragua border, were codenamed "Ahuas Tara I" ("Big Pine I", in the language of the Miskito Indians). (*WP* 1/29/85.)

59. The United States also continued to expand the size of the mercenary force itself. In *February 1983*, the CIA reported to the congressional intelligence committees that the force now consisted of 5,500 men. (*WP* 5/8/83.) In *May 1983*, the CIA informed the two committees that the force had grown to 7,000 men. (*WP* 5/8/83.)

60. In *May 1983*, senior representatives of the United States Administration and the Congress, including President Reagan, made a series of public acknowledgments that the United States was conducting military and paramilitary attacks in and against Nicaragua. These were made — and continue to be made — in the context of the Administration's periodic campaigns to persuade the Congress to continue appropriating funds to carry on "covert activities" against Nicaragua.

61. On *5 May 1983*, President Reagan was asked at a news conference whether, if the Congress voted against providing further funds for the mercenary forces, the Administration would attempt to circumvent such a restriction by delivering the funds indirectly through third countries. He replied:

> "Now, if they [the Congress] want to tell us that we can give money and do the same things we've been doing — money, giving, providing subsistence and so forth to these people directly and making it overt instead of covert — that's all right with me." (Official Transcript, p. 168, *infra*, Ann. C, Attachment I-1.)

62. On *6 May 1983*, Senate Intelligence Committee Chairman Barry Goldwater announced publicly, after a closed session of the committee, that

> "what we've done is fund Nicaraguan-Cuban covert military action as currently defined through Sept. 30 and authorized an additional $19 million from the reserve for contingency [the CIA's budget] to fund a new, redefined program on receipt of a new presidential finding" (*WP* 5/7/83).

In a letter to the Director of the Congressional Research Service, Senator Goldwater described the Senate Intelligence Committee's action in the following manner:

> "Recently the Senate Select Committee on Intelligence reported the Intelligence Authorization Act of FY 1984 [S-1230]. The classified annex of this bill contained language which described the terms under which funds authorized for use in the current covert paramilitary action program directed at the Sandinista government in Nicaragua would be released. A sanitized version of this language is enclosed . . ." (Letter of 27 June 1983 from Senator Goldwater to Mr. Gilbert Gude, Ann. E, Attachment 2.)

The "sanitized version" of the committee's classified annex, attached to Senator Goldwater's letter, stated that the committee decided to fund the "current covert paramilitary action program directed at the Sandinista government" only until the end of fiscal year 1983, and to approve the funds requested for fiscal year 1984 for "a re-directed, re-defined paramilitary covert action program based upon formulation of a new Presidential Finding". (Ann. F, Attachment 2.)

63. On *13 May 1983*, the Permanent Select Committee on Intelligence of the House of Representatives published an official report reviewing the covert activities against Nicaragua to date (House of Representatives *Report No. 98-122*, 98th Congress, 1st Session, Part I, Ann. F, Attachment 1). The Report stated that "encouragement and support has been provided to Nicaraguan exiles to foster insurgency within Nicaragua" (*ibid.*, at 2). It further stated that the purpose of "United States support and training to anti-Sandinista insurgents" was not, as the CIA had initially told the committee, to interdict alleged arms traffic from Nicaragua to El Salvador, but to overthrow the Nicaraguan Government:

> "The activities and purposes of the anti-Sandinista insurgents ultimately shape the program. Their openly acknowledged goal of overthrowing the Sandinistas, the size of their forces and efforts to increase such forces, and finally their activities now and while they were on the Nicaraguan-Honduran border, point not to arms interdiction, but to military confrontation. As the numbers and equipment of the anti-Sandinista insurgents have increased, the violence of their attacks on targets unrelated to arms interdiction has grown, as has the intensity of the confrontation with Sandinista troops." (*Ibid.*, at 11.)

The Report further stated:

> "If there ever was a formula for US policy failure in Central America, it would involve two elements: (1) acts that could be characterized as US intervention in Nicaragua; and (2) an alliance with the followers of Somoza. Both characterizations can now be made." (*Ibid.*, at 3.)

The committee concluded that all United States support for military and paramilitary activities against Nicaragua should be terminated (*ibid.*, at 4).

64. Despite this report the Reagan Administration decided once again upon an escalation in the level and nature of military activities against Nicaragua. It authorized yet another increase in the size of the mercenary army as well as a change in its tactics. In *June 1983*, the CIA reported to the intelligence committees that the force had grown to 8,000 men. (*WP* 7/14/83.)

65. In early *July 1983*, the congressional intelligence committees were informed that there were 8,000-10,000 men in the mercenary army. (*WP* 7/14/83.) At the same time, new tactics were employed. Units were again deployed in camps inside Nicaragua. This time, however, instead of confining their activities to more isolated regions, they were directed to attack population centers, to strike at important economic targets and, in the words of the CIA's Duane Clarridge, "to fight more of a classic guerrilla war" (*NYT* 12/3/84; *WP* 9/29/83).

66. As part of its effort to formalize its training of these forces to fight a "classic guerrilla war", the CIA prepared and distributed an operations manual entitled *Psychological Operations in Guerrilla Warfare* (Ann. G). This document put in written form the instructions that the CIA had been giving in a less formal manner to the mercenaries. The Intelligence Committee of the House of Representatives confirmed that the manual was written and printed by the CIA. (Ann. F, Attachment 17.) The manual was written by a special CIA contract employee using the pseudonym "John Kirkpatrick", who was given this assign-

ment by Clarridge. "Kirkpatrick" modeled the manual on a United States Army manual prepared in 1968 at the Army Special Warfare School in Fort Bragg, North Carolina, and specifically on the Army's Lesson Plan No. 643, entitled "Armed Psyop" and subtitled "Implicit and Explicit Terror". (*NYT* 10/29/84; *NYT* 10/30/84; *WP* 10/30/84; *WP* 10/31/84; see also Transcript of Remarks of Senator Daniel Moynihan, Vice Chairman, Senate Select Committee on Intelligence, 28 October 1984, on ABC News "This Week with David Brinkley", Ann. E, Attachment 16.) At least 5,000 copies of the manual were printed, about half in Tegucigalpa and half at the CIA's headquarters in Langley, Virginia. They were distributed among the mercenary forces. (*NYT* 10/20/84; *NYT* 10/23/84; *NYT* 12/7/84; *WP* 10/20/84; *WP* 12/7/84.)

67. Under the heading "Implicit and Explicit Terror", the manual instructed the mercenaries to occupy small towns and then destroy police installations, cut all communications lines, set up ambushes, and: "Kidnap all officials or agents of the Sandinista government and replace them in 'public places' with military or civilian persons of trust to our movement." (Ann. G, p. 12.) The manual also advocated the "selective use of violence for propagandistic effects" (*ibid.*, p. 14), and urged that the rebels "neutralize carefully selected and planned targets, such as court judges, 'mesta' judges [*i.e.*, justices of the peace], police and state security officials, CDS [neighborhood Sandinista party committee] chiefs, etc." (*ibid.*, pp. 14-15.) President Reagan, in response to a question at a news conference as to the meaning of the word "neutralize" as it appears in the manual, said the following:

> "*Q.* Didn't the manual say 'neutralize' — and can't that be construed as meaning assassination?
>
> *The President.* I suppose you could construe it any number of — of several ways — but, in the context in which it was recommended; actually, that was not the actual choice — the original choice of the word. The real word was 'remove' — meaning remove from office. If you came into a village or town, remove from office representatives of the Sandinista government. When they translated it into the Spanish, they translated it 'neutralize' instead of remove. But the meaning still remains the same.
>
> *Q.* Well, how would you go about doing that without violence and force?
>
> *The President.* No. You just say to the fellow that's sitting there in the office — you're not in the office anymore. (Laughter.)" (Official Transcript, pp. 178-179, *infra*, Ann. C, Attachment I-8.)

68. In a section on "Control of Mass Concentrations and Meetings", the CIA manual urged the mercenaries to hire "professional criminals ... to carry out specific selective 'jobs'", to instigate uprisings and disturbances among the population, and to create "martyrs" for the cause "in order to create greater conflicts" (Ann. G, p. 33).

69. In addition to the manual on "Psychological Operations in Guerrilla Warfare", the CIA prepared and distributed an illustrated booklet entitled *Freedom Fighter's Manual* (Ann. H). It was intended not only for members of the mercenary forces themselves, but also for potential sympathizers within Nicaragua in an effort to induce them to commit acts of sabotage against the "essential economic infrastructure" of the country. With cartoon-type drawings, the *Freedom Fighter's Manual* illustrates more than 40 ways to commit sabotage using "simple household tools". Its suggestions include: damaging office equipment, smashing windows, stopping up toilets, calling in false fire alarms, spreading rumors, disabling government vehicles, stealing government food supplies, setting

fires, and throwing "molotov cocktails" at police offices and fuel depots. The first edition of the manual prepared by the CIA had to be redone because it reflected its non-Nicaraguan origins. According to Edgar Chamorro, one of those the CIA appointed to the "political directorate" of the mercenary forces, "the C.I.A. wanted us to distribute" the manual, but the illustrations "didn't look very Nicaraguan". Noting that the manual urged Nicaraguans to steal mail from mailboxes, Chamorro also observed that "in Nicaragua we don't have any mailboxes". (*NYT* 10/19/84.)

70. On *27 and 28 July 1983*, the United States House of Representatives debated whether to enact legislation terminating United States support for the mercenary army. During the debate, several Representatives who had attended CIA briefings on the "covert activities" described the purpose and objective of these activities.

71. Representative Edward Boland, Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, informed his colleagues that : "the purpose and the mission of the operation was to overthrow the government of Nicaragua" (129 *Cong. Rec.* H 5748 (27 July 1983), Ann. E, Attachment 3).

72. Representative Lee Hamilton, also a member of the Intelligence Committee, reported that :

> "The administration's intention cannot be separated from the intent and activities of the military groups we support. The Contras have openly declared their intention to 'Liberate Nicaragua' and their activities, the size of their forces, the level of the conflict, the targets they are choosing, all fit with this intention . . . The Contras aim to bring down the Sandinistas. We are now supporting a large army inside Nicaragua. We can no longer deny that we are fighting a mercenary war in Nicaragua to overthrow the government of that country." (129 *Cong. Rec.* H 5725 (27 July 1983), Ann. E, Attachment 3.)

73. Representative Wyche Fowler, another member of the Intelligence Committee, informed his colleagues that "there was no indigenous uprising of Nicaraguans against the Sandinista government before the United States decided to finance such an uprising" (*ibid.*).

74. The Majority Leader of the House of Representatives, James Wright, also a member of the Intelligence Committee, advised his colleagues that the purpose of the United States-supported activities was to overthrow the Government of Nicaragua, and that such activities violate international law :

> "Those whom we have recruited, trained, financed, equipped and sent into that country state unequivocally that their purpose is to overthrow the government of that country. For us to say that it is otherwise really is to evade the fact and render ourselves subject to the censure of our friends and colleagues throughout the hemisphere. . . ." (129 *Cong. Rec.* H 5837 (28 July 1983), Ann. E, Attachment 4.)

Representative Wright also observed :

> "Our acts in Nicaragua, the so-called covert acts which are not covert at all, in equipping and financing and maintaining some 12,000 troops in Nicaragua, is regarded throughout Latin America as a reckless invasion. It frightens them. They think it is a time bomb that is going to set off a conflagration throughout the hemisphere.

> They regard this as a violation of the Organization of American States Charter. As a matter of plain fact, I think it is, because what we have done, quite frankly — and let us be honest with ourselves — has been to finance an invasion from outside of a sovereign country." (129 *Cong. Rec.* H 5729 (27 July 1983), Ann. E, Attachment 3.)

75. Representative Michael Barnes, Chairman of the Subcommittee on Western Hemisphere Affairs of the House Foreign Affairs Committee, stated that United States sponsorship and direction of the mercenary forces was no longer a secret:

> "[A]s everybody in this room knows, as everybody in the world knows, what the United States decided to do was to unilaterally hire 10,000, 12,000 maybe in the future 20,000, 50,000 we do not know how many people, to invade Nicaragua . . ." (129 *Cong. Rec.* H 5833 (28 July 1983), Ann. E, Attachment 4.)

76. At the conclusion of the debate, the House of Representatives voted to terminate all United States support for the mercenary forces (*ibid.*).

77. Because the Senate did not concur, the vote of the House of Representatives did not result in the end of funding for United States military and paramilitary activities against Nicaragua. In fact, immediately after the vote, the Administration dramatically increased the level of these activities. President Reagan approved a new CIA plan calling for expansion of the mercenary army to 12,000-15,000 men, and emphasizing the importance of destroying vital economic installations and inflicting maximum harm on the Nicaraguan Government. To ensure the success of the plan, attacks against major Nicaraguan economic targets would be carried out directly by United States forces, rather than the mercenaries. United States military and intelligence personnel would approach Nicaraguan ports and oil facilities in specially designed "mother ships", from which helicopters or high-speed boats would carry them to their designated targets.

78. Elements of the plan were incorporated into a new "Presidential finding" authorizing increased "covert activities" against Nicaragua. The "finding" was presented in written form to the Senate and House Intelligence Committees on *20 September 1983*, along with a request for $45,000,000 in additional funding for the operation during fiscal year 1984 (1 October 1983-30 September 1984). (*WSJ* 9/21/83.) It dropped all pretense that the "covert activities" were aimed at arms interdiction or Cuban military installations and clearly identified the program's purpose as destabilization of the Nicaraguan Government and coercion of the Government into adopting new domestic and foreign policies. The "finding" made no mention of the direct use of United States military and intelligence personnel in attacks against Nicaragua, however, although this was a part of the Administration's new plan. (*WP* 7/14/83; *WP* 7/29/83; *WSJ* 9/21/83; *WP* 7/27/83; *WP* 9/29/83; *WP* 4/18/84; *NYT* 7/25/83.)

79. To bring further pressure to bear on the Nicaraguan Government, and to support the mercenary forces, large-scale United States military forces were deployed in Honduras, near the border with Nicaragua, and in the waters off both of Nicaragua's coasts. In *August 1983*, the United States commenced its largest-ever military maneuvers in Honduras, under the name of "Ahuas Tara II" ("Big Pine II"). The number of United States troops participating in the maneuvers exceeded 5,000. Large quantities of United States arms, ammunition and other military equipment were brought to Honduras. Many of the exercises

brought United States troops close to the Nicaraguan border. Airstrips were built or upgraded by United States military forces at various sites in Honduras. The purpose was to establish bases from which supplies would be regularly airlifted to mercenary forces inside Nicaragua after the maneuvers ended and the United States military personnel withdrew from Honduras. (*WP* 7/27/83; *WP* 3/22/85; *WP* 2/24/85.)

80. When the Ahuas Tara II maneuvers commenced, flotillas of United States warships were sent to patrol the waters off both of Nicaragua's coasts. The first to arrive was the aircraft carrier USS *Ranger*, which, together with its five-warship escort, remained off Nicaragua's Pacific coast for 19 days. This armada was replaced by a seven-warship fleet headed by the battleship USS *New Jersey*, which continued the patrol through the end of August. Meanwhile, the USS *Coral Sea*, another aircraft carrier, and its five-warship escort group, patrolled Nicaragua's Atlantic coast. Senior Administration and military officials publicly stated — and a contemporaneous memorandum prepared by the Department of Defense confirmed — that a principal purpose of these deployments was to threaten and intimidate Nicaragua, as part of a program of "perception management" aimed at raising alarm in Nicaragua about United States intentions and thereby gaining concessions from the Nicaraguan Government. (*WP* 7/22/83; *WP* 7/27/83; *NYT* 3/30/85.)

81. Adolfo Calero, whom the CIA had named head of the "political directorate" of the mercenary forces, said that the presence of these large United States military forces also provided a "shield" for a stepped-up military campaign by the mercenaries. Mr. Calero explained that the United States forces would "stop the Sandinistas from going into Honduras" in pursuit of mercenary units. He further stated that "there is a stage being set up" for some "spectacular" actions against the Nicaraguan Government. "Everything adds up to the downfall of the Sandinista government", he said. "It has to happen, if not by the end of this year, then by the beginning of next year." (*WP* 7/22/83.) The Big Pine II maneuvers lasted, without interruption, until 8 February 1984, a period of almost six months.

82. During this period the mercenaries, pursuant to the new CIA plan incorporated in the President's most recent finding, carried out a number of deadly and destructive attacks inside Nicaragua. Simultaneously, United States military and intelligence forces themselves repeatedly attacked vital Nicaraguan economic installations, including ports, oil storage facilities, pipelines and warehouses. (*WP* 4/18/84; *NYT* 4/18/84.)

83. On *3 September 1983*, a mercenary unit attacked El Guayo, in Matagalpa province, kidnapped 18 peasants and burned their houses. All of the peasants were later found with their throats slit. (Carrión Affidavit, Ann. A, Exhibit A, p. 147, *infra*.)

84. On *8 September 1983*, two Cessna aircraft attacked the Augusto C. Sandino International Airport in Managua, destroying passenger facilities. One of the airplanes was shot down by ground fire. Registration documents found in the wreckage disclosed that the plane, a twin-engine Cessna 404, had been owned by two United States companies that work under contract with the CIA. (*NYT* 11/8/83; *WP* 2/24/85.) The pilot, who was killed in the crash, carried papers with the name and telephone number of a CIA officer at the United States Embassy in Costa Rica. (*WP* 2/24/85.)

85. Later in *September 1983*, United States military and intelligence personnel, dispatched from a special CIA "mother ship" off Nicaragua's Pacific coast, blew up oil storage and pipeline facilities at Puerto Sandino. (Carrión Affidavit, Ann. A, Exhibit A, p. 147, *infra*; see also *NYT* 4/18/84.)

86. On *2 October 1983*, United States personnel attacked oil storage facilities at Benjamin Zeledon on Nicaragua's Atlantic coast, causing the loss of 400,000 gallons of fuel. (*NYT* 10/13/83.)

87. On *10 October 1983*, in the largest and most destructive of these attacks, United States military and intelligence personnel attacked the port of Corinto on the Pacific coast by air and sea and demolished five huge oil storage tanks. The attack cost Nicaragua more than 3.2 million gallons of gasoline and diesel fuel, a large portion of Nicaragua's fuel reserves. Over 100 persons were injured and more than 20,000 townspeople had to be evacuated because of raging fires and the danger of explosions. (Carrión Affidavit, Ann. A, Exhibit A, p. 148, *infra*; see also *NYT* 10/13/83; *NYT* 4/18/84; *WP* 4/18/84; *WSJ* 5/6/85.)

88. On *14 October 1983*, United States naval frogmen using sophisticated underwater explosive devices again blew up the oil pipeline at Puerto Sandino. (*WSJ* 3/6/85.)

89. On *18 October 1983*, 400 mercenaries attacked Pantasma, Jinotega, killing 47 persons, including farm workers, engineers and architects. They also destroyed ten tractors and trucks, a sawmill, a bank, agricultural warehouses and government offices. (Carrión Affidavit, Ann. A, Exhibit A, p. 148, *infra.*)

90. During this period, senior officials of the United States Government publicly acknowledged that the United States was actively supporting the mercenary army and explained the objective of that support. For example, Fred C. Ikle, Under Secretary of Defense for Policy, stated on *12 September 1983* that the United States "must prevent consolidation of a Sandinista régime in Nicaragua" (Remarks to Baltimore Council on Foreign Relations, Baltimore, Maryland, p. 200, *infra*, Ann. C, Attachment II-2). On *19 October 1983*, President Reagan, while addressing a news conference, was asked whether it was "proper" for the CIA to be involved in planning and supplying equipment for the October 10 attack on Corinto. (It had not yet been publicly revealed that the United States carried out the attack directly, with its own military and intelligence personnel.) The President responded: "I do believe in the right of a country when it believes that its interests are best served to practice covert activity." This "right" exists, according to President Reagan, because "covert actions have been a part of government and a part of government's responsibilities for as long as there has been a government" (Official Transcript, p. 170, *infra*, Ann. C, Attachment I-2).

91. The next day, *20 October 1983*, the House of Representatives debated whether to appropriate the $45,000,000 in funding that President Reagan had requested for fiscal year 1984. The Chairman of the Permanent Select Committee on Intelligence, Representative Edward Boland, reported to his colleagues on the principal developments since they had last debated this question, three months earlier:

> "What has happened since July 28? The most alarming change has been the expansion of the war in Nicaragua. . . . It is now an air and sea war. Insurgents have engaged in bombing raids on Nicaraguan cities, airports, and harbors. Targets have been economic, such as the oil storage tanks in Corinto and the electrical generating plant and oil pipeline in Puerto Sandino. The ground war has heated up again — with deeper penetrations of insurgent forces into the central highlands and large-scale clashes between insurgent and Sandinista troops.
>
> . . .
>
> [T]he administration has reformulated its position on the war in Nicaragua in a new Presidential finding. The finding authorizes the continuation of the

> present program. The scope of activities which are authorized is very broad, and no way limited to arms interdiction. It includes keeping the military pressure on the Sandinistas. Its bottom line is continuation of the war." (129 *Cong. Rec.* H 8390 (20 October 1983), Ann. E, Attachment 5.)

92. Representative Lee Hamilton, also a member of the Intelligence Committee, gave a similar report:

> "I think the most significant developments that have occurred since we met in July are two: One, we have a new finding submitted by the administration which considerably expands the purposes of that operation; and, two, the war in fact has expanded.
>
> The covert war continues and it has expanded. We now see a new strategy. That strategy is to target economic targets like electrical plants and storage facilities, and fighting in the cities." (129 *Cong. Rec.* H 8416 (20 October 1983), Ann. E, Attachment 5.)

93. Representative Michael Barnes, Chairman of the Subcommittee on Western Hemisphere Affairs of the House of Representatives Foreign Affairs Committee, who had recently returned from a trip to Nicaragua, where he met with leaders of the Nicaraguan Government, made the following statement:

> "Myth would have it that the covert operations are designed to force the Nicaraguans to the negotiating table. But the trouble with that is that the Nicaraguans were already there. Nicaragua has been trying to have talks with the Reagan Administration all along. It is not Nicaragua that will not negotiate. It is us. Nicaragua has long since demonstrated its willingness to address our security concerns on the sole condition that we be prepared to address their security concerns.
>
> The one thing that the Nicaraguans will not negotiate about is their revolution. And here we get to the real purpose of the covert operations. They are designed to overthrow the Nicaraguan revolution.
>
> . . .
>
> [T]his Government cannot be overthrown at any acceptable cost. If we install our own Government in Managua, that will not be the end of the civil war, it will be the beginning of it. Thousands of Nicaraguans will die. And the conflict will not be confined to Nicaragua. Our attempt to overthrow this Government is going to be disastrous — disastrous for the interests and the credibility of the United States." (129 *Cong. Rec.* H 8394 (20 October 1983), Ann. E, Attachment 5.)

94. At the conclusion of the debate, the House of Representatives again voted against the President's request for funds to continue the "covert activities" against Nicaragua. (129 *Cong. Rec.* H 8432-33 (20 October 1983), Ann. E, Attachment 5.)

95. However, the Senate agreed to the President's request and ultimately a compromise was reached in which both chambers of Congress approved funding for the "covert activities", but in an amount lower than the President had requested. In *November 1983*, new legislation was enacted appropriating "not more than" $24,000,000 to finance the "covert activities" in fiscal year 1984. This legislation, which was enacted into United States domestic law on *8 December 1983*, explicitly stated that the $24,000,000 was to be used for the purpose of "supporting, directly or indirectly, military or paramilitary operations in Nicaragua". (Department of Defense Appropriation Act for 1984, Section 775, and Intelligence Authorization Act for 1984, Section 108, Ann. D, Attachments

3, 4.) In *late December 1983*, within weeks after the enactment of the new legislation, a large mercenary force invaded northern Nicaragua from Honduras. The invaders were repelled, but at a cost of many Nicaraguan dead and wounded. (*WSJ* 3/4/85.)

96. Despite the death and destruction inflicted on Nicaragua, there was still no weakening of the Nicaraguan Government. Accordingly, President Reagan authorized an increase in the number and size of military and paramilitary attacks to be carried out against Nicaragua directly by United States military and intelligence personnel. Acting on a proposal by National Security Adviser Robert C. McFarlane, President Reagan approved a plan calling for expanded and intensified attacks by United States forces against Nicaraguan ports, power plants, bridges and oil facilities. A major new element of the plan called for the mining of Nicaragua's ports, to curtail Nicaragua's ability to carry on peaceful maritime commerce. The plan was formally approved in *December 1983*. (*WP* 4/11/84; *NYT* 4/16/84; *Time* 4/23/84.) President Reagan's approval of the plan, including the mining of Nicaragua's ports, was confirmed by Senator Barry Goldwater, Chairman of the Senate Intelligence Committee:

> "CIA Director Casey appeared before my committee in closed session to brief us on this issue [whether the CIA was engaged in mining Nicaraguan harbors]. I learned to my deep regret that the President did approve this mining program . . ." (130 *Cong. Rec.* S 4198 (10 April 1984), Ann. E, Attachment 8.)

Senator Goldwater expressed his disapproval of these activities in an open letter to CIA Director Casey:

> "I found out . . . that the CIA had, with the written approval of the President, engaged in such mining . . . [M]ine the harbors in Nicaragua? This is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it." (Ann. E, Attachment 9; see also *WP* 4/11/84.)

President Reagan, when asked to justify his decision authorizing the mining of Nicaragua's ports, said: "Those were homemade mines that couldn't sink a ship. . . . I think that there was much ado about nothing." (Official Transcript, p. 176, *infra*, Ann. C, Attachment I-6.)

97. The mining of Nicaragua's ports was carried out under the direction of the CIA from *January to April 1984*. Again, CIA "mother ships" were used as staging points from which the mining missions were launched. Three types of mines were used: those that responded to direct contact, to sound waves, and to water pressure. Several hundred mines were deployed in the ports of Corinto, Puerto Sandino and El Bluff. The mines were constructed by the CIA Weapons Group in Langley, Virginia, with assistance from the Mines Division of the Naval Surface Weapons Center of the United States Navy in Silver Spring, Maryland. The CIA Weapons Group made the mine casings and stuffed them with explosives, and the Naval Surface Weapons Center provided the fuses, along with technical tests of prototypes of the devices. The final assembly of the mines was performed by CIA weapons specialists in Honduras. They were deployed in Nicaraguan waters by specially trained United States military and intelligence personnel, including CIA employees of Latin American nationality — known in United States intelligence parlance as "UCLAs", or "unilaterally-controlled Latino assets". (*WP* 4/11/84; *NYT* 4/8/84; *NYT* 4/12/84; *NYT* 4/16/84; *NYT* 6/1/84; *Time* 4/23/84; *WSJ* 3/5/85.)

98. The mines damaged at least nine vessels, among them Nicaraguan fishing trawlers and vessels of third States engaged in peaceful maritime commerce with Nicaragua. (*Time* 4/23/84; *WSJ* 3/5/85.) Because of the mines, some shipping companies stopped sending vessels to Nicaraguan ports. (*NYT* 4/12/84.) An official of PEMEX, the Mexican State oil company, reported that the mining had impaired the ability of PEMEX and Nicaragua to charter tankers to deliver oil to Nicaragua. (*WP* 8/18/84.) Direct damage caused by the mines included the following:

25 February: Two Nicaraguan fishing vessels were blown up in El Bluff.

1 March: The Dutch dredger *Geoponte* was damaged by a mine at Corinto.

7 March: The Panamanian ship *Los Caraibes*, carrying medicine, food and industrial inputs, was severely damaged by a mine at Corinto.

20 March: The Soviet Union tanker *Lugansk*, carrying 250,000 barrels of crude oil, was damaged by a mine in Puerto Sandino.

27 March: The Liberian ship *Inderchaser*, carrying molasses, hit a mine in Corinto. The Panamanian ship *Homin* was attacked by armed speedboats while unloading sugar at Puerto Sandino. A Nicaraguan shrimp boat was destroyed by a mine in Corinto.

29 March: The Nicaraguan fishing vessel *San Albino* was destroyed by a mine at Corinto.

30 March: The Nicaraguan shrimp boat *Alma Saltana* was damaged by a mine at Corinto. The Japanese ship *Terusho Maru*, carrying bicycles, automobile spare parts, construction materials and cotton, was damaged by a mine at Corinto. Three speedboats and three helicopters also attacked the Panamanian ship *Homin*, the second time that ship was attacked. (Central American Historical Institute *Update*, 5 April 1984, Vol. 3, No. 13; Ann. J, Attachment 1; see also *Lloyds' List and Shipping Gazette*, March 1984, Ann. J, Attachment 2.)

The Nicaraguan Government attempted to clear the Corinto access channel of mines by dragging a deep sea fishing net between two fishing boats. Most of the Pacific fishing fleet was used in this effort, during which several fishing boats were destroyed. (Ann. J, Attachment 1.)

99. The CIA "mother ships" used in the mining operation also served as bases for attacks against Nicaraguan economic installations by helicopters (which took off from and landed on the ships' decks) and high-speed boats armed with mortars and machine guns. Two Hughes 500 helicopters were accommodated on at least one of the ships. A Fairchild Merlin IV twin-engine propeller plane equipped with forward-looking infrared radar was also used. An internal CIA memorandum reported on the results of these attacks between 1 January and 10 April 1984. The memorandum described 19 separate attacks involving helicopters and speedboats launched from CIA "mother ships" during this period, including the following:

> "*Jan. 4, 1984:* Helicopter rocket and 'Q' [speedboat] attack against the Potosi naval base. . . . 'Q' boat crewed by agents and personnel from Central America. United States helicopter and crew identified targets which were taken under fire by Nicaraguan crewed helicopter. CIA crewed Merlin aircraft equipped with FLIR [forward looking infrared radar] provided real time intelligence support.
>
> Major terminal was hit several times by 'Q' boat cannon fire . . . Rockets set fire and caused damage to buildings within the compound. Nicaraguans admitted to one dead and eight wounded.

Feb. 24-25: El Bluff. 'Q' boats under the command of 3rd country nationals and manned by personnel from Central America conducted the operation. Mother craft remained in international waters.

Four mines were placed in shipping channel. Four Nicaraguan patrol craft were hit; two were sunk and two were damaged. All four were converted fishing boats. Two KIA [killed in action] and four WIA [wounded].

Feb. 29-March 4: Corinto. . . . Eight mines were placed in shipping channel. One Dutch dredger severely damaged. Dutch canceled dredging op. One Soviet-class patrol boat damaged; one Cuban freighter seriously damaged.

March 7: San Juan del Sur POL [oil] and storage facility attacked by two 'Q' boats firing 25 mm cannons . . . 'Q' boats come under intense crossfire from three positions during attack and thus were trapped inside bay. [United States] Support helicopter laid down suppressing rocket fire which enabled 'Q' boats to withdraw safely. . . . Fires and secondary explosions indicated that stored POL products and possible ammunition stocks were destroyed.

March 28-30: Puerto Sandino. Eight mines placed. No tankers have visited terminal yet. Major clashes occurred during both ops: three Nicaraguan PB's [patrol boats] hit: damage/casualties unknown. . . . On 30 Mar., helicopter from mother boat fired defense of 'Q' boat which had lost both engines at offshore terminal.

March 31: Floating gunfight simulator was placed at San Juan del Sur. . . . Purpose was to exacerbate tension among coastal defenders. The sequence firing explosive package drew fire from coastal positions.

April 1: Picked up H-500 [Hughes 500 helicopter] from El Salvador and successfully delivered it to ARDE [the CIA-supported forces based in Costa Rica] in Costa Rica after ferrying it on mother boat. Organization pilots flew helicopter.

April 9: Fire Support to ARDE at San Juan del Norte. . . . Helicopter launched from mother boat [flown by Nicaraguans] provided 2.75" rocket fire into coastal positions. Gun and rocket fire was placed on suspected hostile positions at San Juan del Norte in advance of an attack by ARDE there. ARDE was satisfied with the fire display. No known casualties." (*WSJ* 3/6/85; Ann. C, Attachment III-3; see also *WP* 12/20/84.)

100. In an effort to capitalize on these air and naval attacks, the CIA launched its mercenary forces on intensified ground assaults inside Nicaragua. In addition, on *11 January 1984* a United States Army UH-1H helicopter, providing logistical support to a mercenary attack force, penetrated Nicaraguan air space and was shot down by ground fire. The United States Army helicopter pilot, Jeffrey Schwab, was killed. The United States, after initially denying the violation of Nicaraguan air space, subsequently admitted that the aircraft was over Nicaraguan territory when it was brought down. (*WP* 1/29/84.)

101. In *March 1984*, more than 6,000 mercenaries invaded Nicaragua in what was then the largest assault yet on Nicaraguan territory. In March alone, more than 300 Nicaraguans were killed or wounded. These attacks followed a visit to Honduras by a high-ranking CIA official who met with leaders of the mercenary forces and encouraged them to capture a portion of Nicaraguan territory and establish a "provisional government". The official told them the United States would promptly recognize the "provisional government" as the Government of Nicaragua. (*WP* 11/27/84.)

102. On *8 March 1984*, President Reagan asked the Congress for a supplemental appropriation of $21,000,000 for military and paramilitary activities against Nicaragua in fiscal year 1984. (Statement on Behalf of President Reagan, 8 March 1984, Ann. C, Attachment I-3.) It will be recalled that on 20 September 1983 President Reagan submitted a request to the Congress for $45,000,000 for these activities in fiscal year 1984 and that the Congress appropriated $24,000,000 at that time. (See *supra*, paras. 78, 91-95.)

103. On *20 March 1984*, Secretary of State George P. Shultz, at a press conference concerning the Administration's pending request for $21,000,000, stated: "we identified what is needed now . . . to keep the pressure on Nicaragua . . ." (State Department Transcript, p. 201, *infra*, Ann. C, Attachment II-3). On *28 March 1984*, in an interview with the *New York Times*, President Reagan said that the United States would continue supporting the mercenaries fighting the Government of Nicaragua unless Nicaragua changed its internal policies and permitted the mercenaries to "participate in the government". (Official Transcript, p. 171, *infra*, Ann. C, Attachment I-4.)

104. On *5 April* the Senate voted to appropriate the $21,000,000 requested by President Reagan (130 *Cong. Rec.* S 3897, Ann. E, Attachment 7). Prior to the final vote, Senator Christopher Dodd proposed an amendment that would have appropriated the $21,000,000 requested by President Reagan but prohibited the use of any of the funds "for planning, directing, executing, or supporting acts of terrorism in, over or offshore from the territory of Nicaragua". Senator Dodd's amendment was defeated by the Senate. (130 *Cong. Rec.* S 3879-3896, Ann. E, Attachment 7.) The $21,000,000 appropriation was then taken up by the House of Representatives.

105. On *9 April 1984*, Nicaragua filed its Application against the United States with the Court, and its Request for Interim Measures of Protection. Oral Hearings on the Request were held on *25 and 27 April*. On *10 May 1984*, the Court issued its Order granting interim measures of protection in favor of Nicaragua. Nevertheless, senior United States officials continued their campaign to obtain approval by the House of Representatives of the $21,000,000 supplemental appropriation requested by President Reagan and already approved by the Senate. Assistant Secretary of State for Interamerican Affairs Langhorne A. Motley publicly urged that the House of Representatives approve the $21,000,000 for "covert activities" in and against Nicaragua because supporting the mercenary forces was "the best bargaining chip we have out there". He called the mining of Nicaragua's ports a "legitimate form of self-defense", and said that the "mining comes within the menu of pressures brought in order to modify Nicaraguan behavior". (*NYT* 5/9/84; *WP* 5/9/84.)

106. On *22 May 1984*, at a Presidential News Conference, President Reagan called on the House of Representatives to approve "all elements" of his Central American program, including the $21,000,000 for the mercenaries, whom he referred to as "freedom fighters". (Official Transcript of News Conference by the President on 22 May 1984, p. 173, *infra*, Ann. C, Attachment I-5.) On *23 May 1984*, senior Administration officials, including Secretary of State George P. Shultz, CIA Director William Casey and the Chairman of the Joint Chiefs of Staff, General John W. Vessey, Jr., met with approximately 50 members of the House of Representatives, argued strongly against shutting off aid for the "covert activities" in Nicaragua, and indicated that the President would veto any legislation providing for termination of these activities. (*WP* 5/24/84.)

107. On *24 May 1984*, during a debate on the funding request, Representative Edward Boland, Chairman of the House Permanent Select Committee on Intelligence, said:

> "The administration refuses to budge. It refuses to take seriously the will of the people expressed in two votes of this House. So, we must vote again and demonstrate to the other body [the Senate] our unstinting commitment to end this deadly war." (130 *Cong. Rec.* H 4796 (24 May 1984), Ann. E, Attachment 12.)

There were repeated references during the debate to this Court's Order of 10 May 1984 and the need to respect both the Order itself and international law in general. (See, e.g., 130 *Cong. Rec.* H 4798 (24 May 1984), Ann. E, Attachment 12.) At the conclusion of the debate a majority of the House of Representatives then voted against the Administration's request, and, as a consequence, the $21,000,000 was not appropriated. Thus, the first time the Congress defeated a request from President Reagan for funds for military and paramilitary activities against Nicaragua was after the Court's ordered interim measures of protection.

108. The Administration attempted to persuade the House of Representatives to reconsider. On *25 May 1984*, the Press Secretary to President Reagan, Mr. Larry Speakes, confirmed the Administration's commitment to obtaining the $21,000,000 supplemental appropriation for fiscal year 1984. In a White House Press Briefing, Mr. Speakes made the following comments:

> "*Q.* How are you going to secure the money for the Contras now?
>
> *Mr. Speakes.* The Senate has passed — the Senate version of it provides for $21 million for the Contras. . . . We will work to — with the House in order to — perhaps they will concur with the Senate either in conference or if it goes back to the House for a vote.
>
> *Q.* So make another effort?
>
> *Mr. Speakes.* Yes definitely. We think it's important. We think it's essential. . . . We'll work for both. The El Salvador aid is virtually certain and we'll work for the covert aid." (Official Transcript of Press Briefing by Larry Speakes, 25 May 1984, p. 7, Ann. C, Attachment II-7.)

Also on *25 May 1984*, United States intelligence officials stated that, even without the appropriation of additional funds by the Congress to continue these activities, there were sufficient funds available from prior appropriations to carry on the activities until at least 1 October 1984. (*WP* 5/26/84.) On *29 May 1984*, spokespersons for the Administration reported that the CIA was planning to keep United States intelligence personnel in operation against Nicaragua until 30 September 1984 (the end of the fiscal year) under existing appropriations from the Congress, and to continue the "covert activities" beyond that date if the Administration were successful in persuading the Congress to appropriate additional funds for fiscal year 1985. (*NYT* 5/30/84.) Since the House of Representatives would not reconsider its refusal to appropriate an additional $21,000,000 to the program in fiscal year 1984, the Administration turned its attention to securing the approval of both chambers of Congress for an appropriation of funds for fiscal year 1985.

109. On *10 June 1984*, a former CIA employee who was responsible for analysing political and military developments in Central America for the CIA, David C. MacMichael, stated publicly that the justification asserted by the Administration for its "covert activities" — Nicaragua's alleged shipment of arms to insurgents in El Salvador — was not supported by any credible evidence. According to Mr. MacMichael, "the whole picture that the Administration has presented of Salvadoran insurgent operations being planned, directed and supplied from Nicaragua is simply not true". Mr. MacMichael further stated that

"the Administration and the CIA have systematically misrepresented Nicaraguan involvement in the supply of arms to Salvadoran guerrillas to justify its effort to overthrow the Nicaraguan Government". (*NYT* 6/11/84; *WP* 6/13/84.)

110. In *June 1984*, the Senate took up consideration of the President's request for $28,000,000 for military and paramilitary activities against Nicaragua in fiscal year 1985 (1 October 1984 to 30 September 1985). On *18 June 1984*, the Senate voted to reject a proposed amendment to the Department of Defense Authorization Act for fiscal year 1985 that would have prohibited the use of any funds — including the $28 million requested by President Reagan — "for the purpose of which would have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement or individual". In the course of the debate over this amendment, Senator Joseph Biden, a member of the Intelligence Committee, said:

> "[W]hy go through this charade of telling the press, telling the American people, that the aid to the Contras is designed only to disrupt the arms flow and the reason we are doing this is that because, for example, the tonnage of arms flow has doubled — we do not know what the tonnage was in the first place.
>
> The heck with all of that. What you guys are talking about is overthrowing the government. If that is our objective let us get about the business of overthrowing the government, but let us not kid ourselves." (130 *Cong. Rec.* S 7516-17 (18 June 1984), Ann. E, Attachment 13.)

Senator Edward M. Kennedy stated during the debate:

> "There is not a Member of this body who does not understand that the funding for the Contras is being used to overthrow the Sandinista government." (130 *Cong. Rec.* S 7499-7500, Ann. E, Attachment 13.)

A majority of the Senate then voted against the proposed amendment, and thereby refused to prohibit funding for the "covert activities" in fiscal year 1985. (130 *Cong. Rec.* S 7517, Ann. E, Attachment 13.)

111. On *2 August 1984*, the House of Representatives voted against appropriation of the $28,000,000 requested for fiscal year 1985. Again, there were references during the debate to the fact that continued United States support for these activities violated this Court's Order on interim measures of protection and international law in general. (See, e.g., 130 *Cong. Rec.* H 8281 (2 August 1984), Ann. E, Attachment 14.) During the debate, Representative Edward Boland, Chairman of the House Select Committee on Intelligence, stated that the United States has promoted "an insurgency committed to the overthrow of the Sandinista government" (*ibid.*, H 8269). Although the President's request was defeated in the House of Representatives on 2 August, the Administration continued to seek a compromise between the two Houses of Congress that would provide sufficient funds to keep the program going throughout fiscal year 1985. (*NYT* 8/3/84.) These efforts continued during August and September 1984.

112. In addition, President Reagan and members of his Administration actively encouraged private citizens and organizations to provide funds, weapons, supplies, food and training to the mercenary forces. Senior United States officials acknowledged that private groups were in fact supplementing United States support for the mercenaries with shipments of medicine, food and military uniforms. Defense Department officials stated that some shipments were collected and stored at military bases in Maryland, Michigan, Virginia and Mississippi and then transported free of charge by the United States Air Force and Navy at the request of President Reagan. (*NYT* 7/15/84.)

113. On *1 September 1984*, a Hughes 500 helicopter, with a three-man crew including two private United States citizens, attacked the town of Santa Clara in northern Nicaragua, killing four children. The helicopter was shot down by ground fire from Nicaraguan defense forces. All three crew members died. The two United States citizens — Dana H. Parker and James P. Powell III — were members of a private organization, "Civilian Military Assistance", composed of former members of the United States Armed Forces. Parker was a Captain in the Special Forces Group of the Alabama National Guard. Civilian Military Assistance had been formed for the purpose of providing assistance to the mercenary forces fighting against the Nicaraguan Government. The group sent money, weapons and supplies to the mercenaries, and some of its members provided paramilitary training at base camps and accompanied mercenary units on combat missions inside Nicaragua. (*NYT* 9/6/84; *NYT* 9/7/84; *WP* 9/5/84.)

114. After the deaths of Parker and Powell, Civilian Military Assistance revealed that it had received assistance from the United States Embassies in El Salvador and Honduras in its efforts to assist the mercenary forces. (*NYT* 9/6/84; *NYT* 9/7/84; *NYT* 9/11/84.) It was also disclosed that the helicopter flown by Parker and Powell and three fixed-wing planes used by mercenary forces in the same attack on Santa Clara had been supplied by the CIA. (*WP* 9/15/84.) The three planes, all rocket-equipped (as was the helicopter), had been transferred in a period of four months from the custody of the United States Air Force to a top-secret Joint Chiefs of Staff installation, then to the CIA through a Delaware aviation company (Summit Aviation, Inc.) where they were outfitted with rocket-launchers, and ultimately to the mercenary forces. (*WP* 9/15/84; 9/19/84; *NYT* 9/19/84.)

115. On *10 September 1984*, State Department spokesman John Hughes said that after the $21,000,000 supplemental appropriation for fiscal year 1985 was defeated, the Administration had decided not to discourage private United States nationals from supporting the mercenary forces. (*NYT* 9/11/85.) President Reagan also stated that he would "not want to interfere" with United States nationals privately helping the mercenaries in Nicaragua. (*WP* 10/27/84.) With active encouragement by the Administration, more than $5,000,000 was provided to the mercenary forces in the last year by private groups and individuals in the United States. (*WP* 4/19/85; *WP* 4/18/85.) In addition, the Administration persuaded the Congress to include a provision in the Department of Defense Authorization Act for 1985 that formally permits the Defense Department to assist such groups by sending donated supplies to Central America on military transport. (Ann. D, Attachment 6.)

116. On *3 October 1984*, the Senate voted in favor of President Reagan's request for $28,000,000 for fiscal year 1985. During the debate that preceded the final vote, Senator Barry Goldwater, Chairman of the Senate Intelligence Committee, and Senator Malcolm Wallop, a member of the committee, made the following remarks with respect to the responsibility of the United States for the activities of the CIA in and against Nicaragua:

Senator Goldwater:

> "the CIA is like the rest of our intelligence family, a member of the Government, and they only do what they are told to do . . ." (130 *Cong. Rec.* S 12865 (3 October 1984), Ann. E, Attachment 15.)

Senator Wallop:

> "[I]s the CIA's role in Nicaragua hurting the CIA . . . ? The Senate must understand that the foreign policy of the United States is not made for the

> convenience of its executors. They are an arm of foreign policy, to do what they are told to do.
>
> They are not ginning up, generating, concocting what they are doing in Nicaragua on their own, without directions from the Reagan administration. Nor did they do so in the Carter administration. They are doing what they are directed to do because they are an arm of United States foreign policy." (*Ibid.*)

Senator Wallop also said, with respect to the purpose of the CIA's activities in and against Nicaragua:

> "I would hope . . . that we do not give the erroneous impression that we have fostered the Nicaraguan assistance solely to interdict arms for the war in El Salvador. That would cheapen both our motives and those of the Nicaraguans freedom fighting. We would thereby say that they are not people seeking their own freedom in their own country at their own sacrifice with their own blood and their own discomfort and their own misery; but that they are mere little mercenaries of the United States, off doing business for El Salvador. That was never true." (*Ibid.*)

117. The House of Representatives, having voted against the $28,000,000 appropriation on 2 August refused to hold another vote on the matter. However, on *10 October 1984* a compromise was reached between the Senate and the House of Representatives. On that date, both chambers approved the *Conference Report on House Joint Resolution 648, Continuing Appropriations, 1985*, under which $14,000,000 could be spent in fiscal year 1985 to support military or paramilitary activities in and against Nicaragua, if the President submitted a report to the Congress after 28 February 1985 justifying such an appropriation, and if both chambers of Congress then voted affirmatively to approve the appropriation. This measure was signed into law as Public Law 98-473 on 12 October 1984. (Ann. D, Attachment 5.)

118. On *9 November 1984*, President Reagan signed into law the Intelligence Authorization Act for 1985, which appropriated funds to the CIA for all of its operations during that year. Because this measure did *not* include the funds he had requested for military and paramilitary activities against Nicaragua, President Reagan criticized the Congress for not appropriating the funds, stating that

> "the necessity of United States support for this program is beyond question. I am signing this Act with every expectation that shortly after the next Congress convenes [in January 1985] it will provide adequate support for programs to assist the development of democracy in Central America." (Statement Issued on Behalf of President Reagan, Ann. C, Attachment I-10; see also *WP* 11/10/84.)

119. At the same time, to "maintain pressure" on Nicaragua, the United States again deployed naval units off Nicaragua's coasts, conducted provocative overflights of Nicaraguan territory and sent substantial numbers of United States troops to Honduras, near the Nicaraguan border. In *November 1984*, the United States Navy deployed 23 warships, including the battleship *Iowa*, off the Atlantic coast of Nicaragua. Previously the aircraft carrier USS *John F. Kennedy*, an 80,000-ton warship carrying 85 combat aircraft had patrolled Nicaragua's coasts. (*NYT* 7/18/84; *NYT* 11/9/84.)

120. For four consecutive days, from *7 to 11 November 1984*, a United States SR71 reconnaissance plane flew low over several Nicaraguan cities, producing

loud sonic booms and shattering glass windows, to exert psychological pressure on the Nicaraguan Government and population. The United States did not deny its responsibility or purpose in conducting these overflights. (*NYT* 11/12/84; *WP* 11/12/84.) Such overflights have been conducted on a regular basis. During the preceding 10 months of 1984 alone, 996 overflights took place. (Carrión Affidavit, Ann. A, Exhibit A, p. 159, *infra*.)

121. Also in *November*, a spokesman for the Department of Defense, Lt. Col. Richard Lake, said that United States military personnel conducting maneuvers in Honduras included the following: a company of 120 engineers building roads and resurfacing airstrips; a company of 150 to 180 troops conducting patrolling exercises near Palmerola; a medical clearing company that would conduct triage during a war; approximately a dozen officers providing "command and control" for the King's Guard naval exercise scheduled to take place in December 1984; an air force exercise involving A37 attack planes and 02A observation planes; special forces conducting counterinsurgency exercises with Honduran troops; and army preventive medicine teams. (*WP* 11/14/84.) The United States Embassy in Tegucigalpa announced that there were then 1,300 to 1,500 United States troops in Honduras. (*NYT* 11/19/84.) The Defense Department announced that major military maneuvers would begin in 1985. (*NYT* 11/19/84.)

122. The mercenary forces remained active, staging daily attacks inside Nicaraguan territory. Many of these were aimed at disrupting Nicaragua's elections for President, Vice-President and National Assembly, which were held as scheduled on *4 November 1984*. Election officials and candidates were sought out and either killed or kidnapped. Voter registration files were ransacked and records were destroyed. ("Attacks by the Nicaraguan 'Contras' on the Civilian Population of Nicaragua", Report of a Fact-Finding Mission, September 1984-January 1985, Ann. I, Attachment 2, pp. 98-99; Carrión Affidavit, Ann. A, Exhibit A, pp. 158-159, *infra*.) Then, in *November and December 1984*, in an effort to cripple the Nicaraguan economy, the mercenary forces staged an all-out campaign to interrupt the annual coffee harvest on which the country's economy depends. (Coffee is Nicaragua's leading export commodity.) Coffee farms were systematically attacked. Productive acreage was set afire, storage centers and drying facilities were destroyed and coffee-pickers — unarmed and in civilian dress — were killed, often in brutal fashion, to frighten off the laborers on whom a successful harvest depended. (See, e.g., Brody Report, Ann. I, Attachment 2, pp. 1-19.)

123. On *14 November 1984*, for example, a force of approximately 400-600 men attacked the La Sorpresa coffee farm, 40 miles north of Matagalpa, killing 17 civilians, kidnapping others, and destroying most of the co-operative's facilities — the coffee plant, 600 pounds of coffee, coffee pulping equipment, dormitories, houses, offices, the warehouse where food for the workers was stored, and more. When the mercenaries overran the farm, they killed the wounded with bayonets, rifle shots, and grenades, according to the sworn statements of eyewitnesses. (Brody Report, Ann. I, Attachment 2, pp. 16-19; Carrión Affidavit, Ann. A, Exhibit A, p. 158, *infra*; see also *NYT* 11/23/84.)

124. On *4 December 1984*, a force ambushed a truck carrying volunteer coffee-pickers from the State communications company (TELCOR) near Telpaneca, killing 21 civilians. More than 150 mercenaries attacked with machine guns, rockets, grenades and rifle fire, according to survivors. The attackers climbed onto the truck, shot or bayoneted the survivors, and then set the truck on fire. A survivor (who had jumped off the truck and pretended to be dead) attested, "I could hear the cries and laments of those who were burning alive". (Brody Report, Ann. I, Attachment 2, pp. 4-7.)

125. On *26 December 1984*, in testimony before the Intelligence Committee of the House of Representatives, CIA officials acknowledged that the mercenary forces had committed atrocities including murder, torture, mutilation, rape and kidnapping against unarmed civilians as well as Nicaraguan soldiers who were *hors de combat*. This was confirmed by independent investigations of atrocities committed by the mercenary forces. On *29 December 1984*, the Council on Hemispheric Affairs, a private research group monitoring human rights in Latin America, issued a report condemning the CIA-directed forces as among "the worst human rights violators" in Latin America, responsible for "systematic brutality against a civilian population". The report added that the United States Administration, "[f]or its critical role in facilitating the Contra violence ... must share responsibility as a hemispheric violator of human rights". According to the report, since 1981, "over 800 non-combatants have been killed by the contras after capture, and hundreds more have died as a result of contra attacks ...". The report added that

> "the contras have ... killed, tortured, raped, mutilated and abducted hundreds of civilians they suspect of sympathizing with the Sandinistas. Victims have included peasants, teachers, doctors and agricultural workers". (Ann. I, Attachment 1, see also *WP* 12/30/84.)

126. Another report, prepared by Reed Brody, a United States lawyer who spent four months in Nicaragua collecting over 140 sworn affidavits from victims and eyewitnesses, disclosed "a distinct pattern" of abuses by the mercenaries, including

> "... attacks on purely civilian targets resulting in the killing of unarmed men, women, children and the elderly; premeditated acts of brutality including rape, beatings, mutilation and torture; individual and mass kidnapping of civilians — particularly in the northern Atlantic Coast region — for the purpose of forced recruitment into the contra forces and the creation of a hostage refugee population in Honduras; assaults on economic and social targets such as farms, cooperatives, food storage facilities and health centers, including a particular effort to disrupt the coffee harvests through attacks on coffee cooperatives and on vehicles carrying volunteer coffee harvesters; intimidation of civilians who participate or cooperate in government or community programs such as distribution of subsidized food products, education and local self-defense militias; and kidnapping, intimidation, and even murder of religious leaders who support the government, including priests and clergy-trained lay pastors". (Ann. I, Attachment 2, pp. iv-v.)

127. A report published jointly by the International Human Rights Law Group and Washington Office in Latin America, two private United States organizations that monitor human rights compliance, made the following statement based on an investigative mission they sent to Nicaragua in February 1985:

> "The Contras do attack economic targets such as lumber yards, coffee processing plants, electrical generating stations and the like. ... [They] also attack individuals deemed to be contributors to the country's economy or to its defense, such as telephone workers, coffee pickers, teachers, technicians, and members of the civilian-based militia ...
>
> Substantial credible evidence exists that Contra violence is also directed with some frequency at individuals who have no apparent economic, military, or political significance and against persons who are *hors de combat*. It is

> important to emphasize that these are not persons caught in crossfire between Contra and Sandinista military units. These are unarmed civilians who have no connection with hostilities and who have been the targets of deliberate attack by Contra units."

The report concluded that

> "any provision of aid to the Contras, directly or indirectly, by the government of the United States would render our government indirectly responsible for their acts" (Ann. I, Attachment 3, pp. 14-15, 22-23).

128. The pattern of abuses described in these reports has been further substantiated by investigations conducted by Americas Watch and by the *New York Times* and other news organizations. (*NYT* 3/7/85.) Leaders of the mercenary forces themselves acknowledged that atrocities had been committed. Edgar Chamorro, a member of the "political directorate" selected by the CIA, said, "[f]rankly, I admit we have killed people in cold blood when we have found them guilty of crimes. We do believe in the assassination of tyrants. Some of the Sandinistas are tyrants in the small villages." (*NYT* 10/21/84.) Chamorro said, "in guerrilla war, if you have to exact justice immediately, sometimes you have to do it" (*WP* 10/22/84). (The assassination of Sandinista officials and others implemented the instructions in the CIA manual *Psychological Operations in Guerrilla Warfare* described *supra*; Ann. G.) Chamorro stated further that it was also "common" practice for the mercenary forces to execute their prisoners (*NYT* 12/27/84).

129. On *18 January 1985*, the United States announced that it would not appear in any further proceedings in this case.

130. Beginning in *February 1985*, President Reagan and senior United States officials commenced a public campaign to persuade the Congress to appropriate the $14,000,000 designated in the Continuing Appropriations Act of 1985 for military and paramilitary activities against Nicaragua. In the course of this campaign, President Reagan and other senior officials publicly stated that the purpose of these activities was to bring about a change of government in Nicaragua. No longer did United States officials assert that the purpose of the activities was to interdict an alleged flow of arms to rebels in El Salvador or to carry on "collective self-defense".

131. On *25 January 1985*, Vice-President George Bush said during a public address that

> "our support for those in Nicaragua who are fighting the communist Sandinistas must go forward. The world is starting to understand that the Sandinistas have betrayed their own revolution, and that those called the *contras* are the true champions of freedom and democracy. We must not abandon the *contras* now." (Official Transcript, p. 214, *infra*, Ann. C, Attachment II-8; see also *NYT* 1/26/85.)

132. On *29 January 1985*, in testimony before the Western Hemisphere Subcommittee of the Committee on Foreign Affairs of the House of Representatives, Langhorne A. Motley, the Assistant Secretary of State for Inter-American Affairs, stated that "Nicaragua's freedom fighters deserve the solidarity of the West . . ." (Official Transcript, p. 217, *infra*, Ann. C, Attachment II-9.) Assistant Secretary Motley said that the mercenaries should not be "abandoned", because "the Nicaraguan democratic resistance clearly has a principled claim on our support. These are friends who merit our standing with them — and indeed

can be frustrated if they are denied our help." (Official Transcript, at pp. 217-218, *infra.*) He also stated that it would be a "serious mistake" for the Congress not to continue appropriating funds to the mercenary forces. (*NYT* 1/30/85; *WP* 2/1/85.)

133. On *7 February 1985*, in an interview with the *Wall Street Journal*, President Reagan was asked to explain the purpose of United States support for the mercenary forces. He replied that the Nicaraguan Government had "betrayed the principles that the people of Nicaragua were fighting for. . . . What it's really all about, is getting the revolution the people fought for." (Official Transcript, pp. 180-181, *infra*, Ann. C, Attachment I-11.)

134. On *11 February 1985*, in an interview with the *New York Times*, President Reagan was asked what form United States support to the mercenary forces would take. He responded: "Well, I think what we — I still believe in covert programs where they're necessary and where they're desirable." (Official Transcript, p. 182, *infra*, Ann. C, Attachment I-12.)

135. On *16 February 1985*, in a radio address to the nation, President Reagan called upon the Congress to continue appropriating funds for the mercenary forces, saying,

> "These brave men and women deserve our help. They do not ask for troops but only for our technical and financial support and supplies. We cannot turn from them in their moment of need. To do so would be to betray our centuries-old dedication to supporting those who struggle for freedom. This is not only legal, it's totally consistent with our history."

President Reagan said that the United States was supporting "over 15,000 freedom fighters" against the Nicaraguan Government, and that:

> "They're fighting for an end to tyranny and its only reliable product: cruelty. They are our brothers. How can we ignore them? How can we refuse them assistance when we know that ultimately their fight is our fight?
>
> The freedom fighters are putting pressure on the Sandinistas to change their ways and live not as communist puppets, but as peaceful democrats. We must help. Congress must understand that the American people support the struggle for democracy in Central America. We can save them as we were once saved, but only if we act, and now." (Official Transcript, Ann. C, Attachment I-13.)

136. On *19 February 1985*, Secretary of State George P. Shultz, testifying before the House of Representatives Foreign Affairs Committee, said the United States has "a moral duty" to aid the mercenaries in Nicaragua. He stated,

> "what we have in Nicaragua is a government that's a bad-news government. Now, how can that get changed? We'd like to see them change. But they don't seem inclined to do so. So we have followed these alternatives and we will continue to follow these alternatives." (*WP* 2/20/85; *NYT* 2/20/85.)

137. On *21 February 1985*, in a nationally televised news conference, President Reagan announced that the United States was attempting to remove the Nicaraguan Government and would continue to do so unless the Nicaraguan Government changed its goals and allowed the "freedom fighters" into the Government. When asked what he meant by removal of the Nicaraguan Government, President Reagan replied: "Well, removed in the sense of the present structure, in which it is a Communist totalitarian state, and it is not a government chosen by the people." He was asked if that meant he was advocating the overthrow of the Government. He responded "not if the present government

would turn around and say all right, if they say 'Uncle'". President Reagan again appealed to the Congress to continue appropriating funds for the mercenary forces. (Official Transcript, p. 185, *infra*, Ann. C, Attachment I-14; *WP* 2/22/85; *Time* 3/4/85.)

138. On *27 February 1985*, General Paul F. Gorman, retiring commander of the United States Southern Command, headquartered in Panama and including all United States forces in Central America, testified before the Senate Armed Services Committee that support for the mercenaries should be resumed, along with other measures, to keep up economic and political pressure because "the Sandinistas must be brought to a reckoning". (Prepared Statement, p. 219, *infra*, Ann. C, Attachment II-11.) He told the committee that without a renewal of continued support from the United States "the campaign will begin to peter out, wear down" (*NYT* 2/28/85).

139. On *28 February 1985*, Vice-President Bush, in a speech to the Council on Foreign Affairs in Austin, Texas, repeated the Administration's call to the Congress for funding, appealing for the release of "a few dollars" to make possible "technical, material and financial support" for the mercenaries. (Official Transcript, p. 221, *infra*, Ann. C, Attachment II-12.)

140. In *February and March 1985*, United States military forces commenced the largest ground and air maneuvers ever conducted by United States forces in Central America. In February, the "Ahuas Tara (or Big Pine) III" maneuvers began, involving 4,500 United States troops and significant military materiel, including tanks. United States troops operated as close as 5 kilometers from the Nicaraguan border. Official United States spokesmen said that the maneuvers would last approximately three months. (*WP* 1/29/85.) In March, Defense Department spokesmen announced that the United States was sending 6,600 additional troops to Honduras to participate in the "Universal Trek '85" maneuvers. These were to last approximately two weeks and were to include amphibious landings with support from attack helicopters and guided missile ships. (*WP* 3/22/85; *NYT* 3/27/85.)

141. On *1 March 1985*, in an address to the Conservative Political Action Conference in Washington, D.C., President Reagan said of the mercenary forces:

> "They are our brothers, these freedom fighters, and we owe them our help. I've spoken recently of the freedom fighters of Nicaragua. You know the truth about them. You know who they're fighting and why. They are the moral equal of our Founding Fathers, and the brave men and women of the French Resistance. We cannot turn away from them. . . .
>
> All they need is our support . . . And they need to know that the United States supports them with more than just pretty words and good wishes." (Official Transcript, p. 4, Ann. C, Attachment I-15; see also *NYT* 3/2/85; *WP* 3/2/85.)

142. On *11 March 1985*, in an interview with *Business Week* magazine, President Reagan was asked how he could justify "helping to overthrow a government merely because we don't like its political coloration". He replied:

> "Well, they call themselves a government. . . . I think we have to ignore this pretense of an election they just held. This is not a government. This is a faction of the revolution that has taken over at the point of a gun. And under the United Nations Charter and the Charter of the Organization of American States, there is every reason for us to be helping the people that want the original goals of the revolution instituted." (*Business Week* 3/11/85, p. 69, Ann. C, Attachment I-16; see also *WP* 3/5/85.)

143. On *30 March 1985*, in a radio address to the nation, President Reagan again stated:

> "United States support for the freedom fighters is morally right and intimately linked to our own security. If we refuse to help their just cause, if we pull the plug and allow the freedom fighters to be wiped out by the same helicopter gunships the Soviets are using to murder thousands of Afghans, then our ultimate price to protect peace, freedom, and our way of life will be dear indeed." (Official Transcript, p. 186, *infra*, Ann. C, Attachment I-17.)

144. On *1 April 1985*, in an interview with the *Washington Post*, President Reagan said:

> "And so I think as long as the people of Nicaragua are still striving for the goals of the revolution that they themselves fought, I think that we're obligated to try and lend them a hand." (Official Transcript, p. 187, *infra*, Ann. C, Attachment I-18.)

145. On *3 April 1985*, President Reagan submitted to the Congress a formal request for the appropriation of $14,000,000 for military and paramilitary activities against Nicaragua in fiscal year 1985 and a report setting forth his "justification" for the request as required by the Continuing Appropriations Act for 1985, Public Law 98-473. (See *supra*, para. 117.) This report, entitled *U.S. Support for the Democratic Resistance Movement in Nicaragua* consisted of 22 pages, 16 of which were made public and constitute Annex C, Attachment III-5. The report stated that the $14,000,000 would be used to finance military and paramilitary activities against Nicaragua for the purpose of pressuring the Nicaraguan Government to make far-reaching changes in its own structure and in the internal Nicaraguan political system. The report called for "resumption of aid to the Nicaraguan armed resistance at levels sufficient to create real pressure on the Government of Nicaragua" (*NYT* 4/17/85). The non-public portion of the report specifically added, at this very point, "20,000 to 25,000-man insurgent force in the north and 5,000 to 10,000-man force in the south" (*NYT* 4/17/85). The report also called for "additional military and naval exercises", as part of a "continuation of strong pressure on the Sandinistas". (Report, p. 236, *infra*, Ann. C, Attachment III-5.)

146. The stated purpose was "to increase their [i.e. the mercenary forces'] size and effectiveness to the point where their pressure convinces the Sandinista leadership that it has no alternative to" (among other United States demands) "acceptance of the March 1 Peace Proposal[8] . . . and establishment of a legitimately pluralistic democratic political structure. . . ."

147. President Reagan's report to the Congress also warned that "direct application of US military force . . . must realistically be recognized as an eventual option, given our stakes in the region, if other policy alternatives fail" (*NYT* 4/17/85).

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[8] The "March 1 Peace Proposal" demanded: invalidation of the Nicaraguan elections of November 1984; dissolution of the National Assembly; holding of new "internationally supervised" elections for the establishment of a new national legislature, which would decide whether Nicaragua's President, Daniel Ortega Saavedra, and its Vice-President, Sergio Ramirez Mercado (both elected in November 1984) could continue to hold office; disbanding of all neighborhood Sandinista party committees, and other changes that would, in effect, dismantle the Nicaraguan Government and completely reorganize the internal Nicaraguan political system. (*WP* 4/5/85; Ann. C, Attachment III-5, p. 232, *infra*.)

148. On *4 April 1985*, President Reagan — as an inducement to the Congress to approve his request for the $14,000,000 — proposed that the assistance to the mercenaries be "used for food, clothing and medicine and other support for survival", and not directly for arms or ammunition, if the Nicaraguan Government would negotiate an agreement with the mercenary forces within 60 days, based on the "March 1 Peace Proposal" put forth by mercenary leaders. (Official Transcript, p. 188, *infra*, Ann. C, Attachment I-19.) President Reagan explained that if the Nicaraguan Government refused to agree to those terms within the 60-day period, he would remove the restrictions on the use of the funds. (*Ibid.*, p. 189, *infra*.) During a question and answer session with journalists about President Reagan's proposal, the following exchange took place:

> "*Q.* Mr. President, you've made it plain that the $14 million, you think, is essential. But if Congress should turn you down, would you look for some other avenues to help the Contras, some other way to continue your desire to see a restructuring of the Nicaraguan government?
>
> *The President.* We're not going to quit and walk away from them, no matter what happens." (Official Transcript, pp. 188, 190, *infra*, Ann. C, Attachment I-19.)

149. The Nicaraguan Government rejected President Reagan's ultimatum as unlawful intervention in Nicaragua's internal affairs. The President of the Republic of Colombia, Mr. Belisario Betancur, after receiving from President Reagan the United States proposal to the Nicaraguan Government, said it was "a preparation for war". Mr. Betancur said,

> "any foreign support to guerrilla groups, whatever the origin, is clearly in opposition to the prevailing doctrine in Latin America regarding foreign intervention in the internal affairs of our continent" (*NYT* 4/16/85).

150. On *23 April 1985*, the Senate voted in favor of President Reagan's request for $14,000,000 for the mercenary forces in fiscal year 1985. The next day, the House of Representatives voted against the request: the proposal supported by President Reagan lost, on the most critical vote, by a margin of only two votes (215-213). After the vote, President Reagan stated that he would "return to the Congress again and again" until the $14,000,000 for the mercenary forces was approved. President Reagan has also requested an additional $28,000,000 for the mercenary forces in fiscal year 1986. The Congress is expected to vote on that request in September 1985. (*WP* 4/25/85.)

* * *

151. As a result of the United States military and paramilitary activities, described above, Nicaragua has suffered three separate types of injury for which it seeks compensation:

(i) *The killing, wounding, and kidnapping of Nicaraguan nationals, loss of property, and disturbance of possession of property*

As of 31 December 1984, a total of 2,638 Nicaraguan nationals were killed by military and paramilitary activities conducted by the United States. Following is a year-by-year breakdown of the number killed:

1981	48
1982	199
1983	1,126
1984	1,265.

The names of the victims are set forth in Annex L. Nicaragua seeks compensation as *parens patriae* for its deceased and injured nationals, including those killed or injured after 31 December 1984, whose names will be provided to the Court. Nicaragua has not yet calculated the compensation to which it is entitled for these wrongs, but will present the specific amount claimed, together with supporting evidence, in due course. Such amounts will also include losses of property and losses arising from disturbance in the possession of farms and other property.

(ii) *Direct physical damage to materials, capital equipment and production*

As of 31 December 1984, the damage caused by the United States military and paramilitary activities amounted to $378,200,000. The year-by-year breakdown is as follows (in millions of dollars):

	Damage to Materials and Capital Equipment	*Damage to Production*	*Total*
1981	3.9	3.4	7.3
1982	10.8	21.2	32.0
1983	57.5	97.4	154.9
1984	24.4	159.6	184.0
	96.6	281.6	378.2

Nicaragua will present in due course a detailed breakdown of the direct physical damage to materials, capital equipment and production during the period 1981-1984, as well as a complete description of the methodology employed in ascertaining the damage and calculating its cost. Because the military and paramilitary activities against Nicaragua have continued beyond 31 December 1984 — and are continuing as of the filing of this Memorial — Nicaragua reserves the right to seek additional compensation for damage caused after 31 December 1984, and to present evidence in support of such claim.

(iii) *Consequential damage to the Nicaraguan economy*

It is evident that the unlawful activities of the United States have had severe consequences for Nicaragua's economic and social development. For example, human and material resources have been diverted from economic development to the overriding requirement of defense. Forty per cent of Nicaragua's public expenditures are now devoted to this purpose. Materials and equipment needed for development have been destroyed and replacements are unavailable. Shortages of key materials have developed. Farmers, other individual producers, artisans, teachers, and other skilled personnel have been killed. The economic infrastructure has been seriously weakened. Nicaragua reserves the right to present evidence on the amount of these consequential damages at an appropriate time, to be determined by the Court.

CHAPTER II

THE NATURE OF THE EVIDENCE BEFORE THE COURT

Section I. Purpose of this Chapter

152. The purpose of the present Chapter is to review, as succinctly as possible, certain issues concerning the forms and methods of proof presented by the evidential settings of the proceedings on the merits. The aim is to assist the Court by means of an examination of particular aspects of the substantial body of evidence presented in Chapter I.

Section II. The Provisions of Article 53 of the Statute

153. The United States has expressed its intention not to appear in the present proceeding. On 22 January 1985, the President of the Court received the Agent of Nicaragua, who informed the President that his Government maintained its Application and availed itself of the rights provided for in Article 53. Consequently the provisions of Article 53 of the Statute of the Court are applicable. By Order of the same date, the President fixed the date of 30 April 1985 for the delivery of the Nicaraguan Memorial on the merits, and 31 May 1985 for delivery of the United States Counter-Memorial. Against this background the Applicant State intends to use its best endeavors to assist the Court by the practical means available to it.

154. The first such practical means is to furnish all the evidence available, together with the relevant legal argument. The second practical means is respectfully to call to the Court's attention the observations which were made on previous occasions involving the application of Article 53 of the Statute.

155. In the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case (*I.C.J. Reports 1974*, p. 3), the Court made the following observations on matters of evidence:

> "15. The Court is thus confronted with the situation contemplated by Article 53, paragraph 1, of the Statute that 'Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favour of its claim'. Paragraph 2 of that Article, however, also provides: 'The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.'
>
> 16. The present case turns essentially on questions of international law, and the facts requiring the Court's consideration in adjudicating upon the Applicant's claim either are not in dispute or are attested by documentary evidence. Such evidence emanates in part from the Government of Iceland, and has not been specifically contested, and there does not appear to be any reason to doubt its accuracy. The Government of Iceland, it is true, declared in its above-mentioned letter of 11 January 1974 that 'it did not accept or acquiesce in any of the *statements of fact* or allegations or contentions of law contained in the Memorials of the Parties concerned' (emphasis added). But such a general declaration of non-acceptance and non acquiescence cannot suffice to bring into question facts which appear to be established by documentary evidence, nor can it change the position of the applicant

> Party, or of the Court, which remains bound to apply the provisions of Article 53 of the Statute." (*I.C.J. Reports 1974*, p. 9; and see also *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)*, *ibid.*, p. 175, at pp. 180-181, paras. 16-17.)

156. The United States Counter-Memorial of 17 August 1984 contains a formal reservation as to the issues raised in the Nicaraguan Application (see p. 223, para. 520), but in practice that pleading enters upon issues of fact bearing upon the merits (pp. 75-82).

157. Important pronouncements on the evidential implications of applying Article 53 were also made in the Judgment of the Court in the case concerning the *United States Diplomatic and Consular Staff in Tehran (United States* v. *Iran)* (*I.C.J. Reports 1980*, p. 3), in which the United States was the Applicant seeking a judgment from the Court in the face of Respondent's refusal to participate. For the convenience of the Court the relevant passages are set forth in full:

> "11. The position taken up by the Iranian Government in regard to the present proceedings brings into operation Article 53 of the Statute, under which the Court is required *inter alia* to satisfy itself that the claims of the Applicant are well founded in fact. As to this article the Court pointed out in the *Corfu Channel* case that this requirement is to be understood as applying within certain limits:
>
> > While Article 53 thus obliges the Court to consider the submissions of the Party which appears, it does not compel the Court to examine their accuracy in all their details; for this might in certain unopposed cases prove impossible in practice. It is sufficient for the Court to convince itself by such methods as it considers suitable that the submissions are well founded. (*I.C.J. Reports 1949*, p. 248.)
>
> In the present case, the United States has explained that, owing to the events in Iran of which it complains, it has been unable since then to have access to its diplomatic and consular representatives, premises and archives in Iran; and that in consequence it has been unable to furnish detailed factual evidence on some matters occurring after 4 November 1979. It mentioned in particular the lack of any factual evidence concerning the treatment and conditions of the persons held hostage in Tehran. On this point, however, without giving the names of the persons concerned, it has submitted copies of declarations sworn by six of the 13 hostages who had been released after two weeks of detention and returned to the United States in November 1979.
>
> 12. The essential facts of the present case are, for the most part, matters of public knowledge which have received extensive coverage in the world press and in radio and television broadcasts from Iran and other countries. They have been presented to the Court by the United States in its Memorial in statements of its Agent and Counsel during the oral proceedings and in written replies to questions put by Members of the Court. Annexed or appended to the Memorial are numerous extracts of statements made by Iranian and United States officials either at press conferences or on radio or television and submitted to the Court in support of the request for provisional measures and as a means of demonstrating the truth of the account of the facts stated in the Memorial. Included also in the Memorial is a 'Statement of Verification' made by a high official of the United States Department of State having 'overall responsibility within the Department in matters relating to the crisis in Iran'. While emphasizing that in the

> circumstances of the case the United States has had to rely on newspaper, radio, and television reports for a number of the facts stated in the Memorial, the high official concerned certifies that to the best of his knowledge and belief the facts there stated are true. In addition, after the filing of the Memorial, and by leave of the Court, a large quantity of further documents of a similar kind to those already presented were submitted by the United States for the purpose of bringing up to date the Court's information concerning the continuing situation in regard to the occupation of the Embassy and the detention of the hostages.
>
> 13. The result is that the Court has available to it a massive body of information from various sources concerning the facts and circumstances of the present case, including numerous official statements of both Iranian and United States authorities. So far as newspaper, radio and television reports emanating from Iran are concerned, the Court has necessarily in some cases relied on translations into English supplied by the Applicant. The information available, however, is wholly consistent and concordant as to the main facts and circumstances of the case. This information, as well as the United States Memorial and the records of the oral proceedings, has all been communicated by the Court to the Iranian Government without having evoked from that Government any denial or questioning of the facts alleged before the Court by the United States. Accordingly, the Court is satisfied that, within the meaning of Article 53 of the Statute, the allegations of fact on which the United States bases its claims in the case are well founded." (*I.C.J. Reports 1980*, pp. 9-10.)

158. In order to assist the Court in the discharge of its duties Nicaragua has provided in this case "a massive body of information from various sources" including statements of the President of the United States and senior United States officials, statements and reports of Congress, and United States legislation and newspaper and radio accounts, all of which is likewise "consistent and concordant as to the main facts and circumstances of the case". In the following paragraphs, Nicaragua presents certain aspects of this available evidence that are of particular significance.

Section III. Express Admissions of Responsibility on the Part of the Government of the United States

A. The Legal Basis of Admissibility of Evidence in the Form of Admissions of Government Officials

159. A notable feature of the actions and policies of the United States Government in the relevant period has been the series of public statements which expressly recognize the responsibility of the United States for hostile acts aimed at the territory of Nicaragua, its government and its people. In particular, such statements have been made by President Reagan. The purpose of this portion of the Memorial is to present the evidence of express admissions by responsible agents of the United States Executive, to indicate the admissibility of such evidence in the context of public international law, and to examine the different ways in which such evidence is relevant in the present proceedings.

160. The basic concepts and principles of the law of evidence form part of the "general principles of law" to which reference is made in Article 38 of the Statute of the Court. The admissibility and relevance of express and implied admissions is widely recognized in the literature of common law countries. Thus the great classic of the Anglo-American law of evidence, Wigmore, states that "the

statements made out of court by a party-opponent are universally deemed admissible, when offered against him" (*Evidence*, 1972, Vol. 4, para. 1048). The relevance of admissions is recognized also in the leading English authorities. In *Cross on Evidence*, it is stated that "a party's statements adverse to his case are received as evidence of the truth of their contents in civil and criminal proceedings" (*Cross on Evidence*, 1979, p. 518). (See also *Phipson on Evidence*, 1982, paras. 19-01 to 19-23.)

161. The materials of public international law refer to the relevance of admissions. (See Cheng, *General Principles of Law as Applied by International Courts and Tribunals*, 1953, pp. 141-147; *Aerial Incident of 27 July 1955 (Israel v. Bulgaria; United States of America v. Bulgaria; United Kingdom v. Bulgaria), I.C.J. Pleadings 1959*, Memorial of Israel, p. 45, at pp. 99-100, paras. 89-91.) However, a number of authoritative writers employ the category of "recognition", which is applicable to the recognition both of facts in the simple sense and of situations, including *legal* situations. (See Suy, *Les actes juridiques unilatéraux en droit international public*, 1962, pp. 202-206; Rousseau, *Droit international public*, 1971, Vol. I, p. 426, para. 344.)

162. In any case it is completely normal for international tribunals to give evidential weight to the statements of government officials and many examples exist. (See the *Corfu Channel case (Merits), I.C.J. Reports 1949*, p. 4, at pp. 18-19; *Minquiers and Ecrehos* case *(France/United Kingdom), I.C.J. Reports 1953*, p. 47, at pp. 71-72; *Fisheries Jurisdiction* case *(United Kingdom v. Iceland) (Merits), I.C.J. Reports 1974*, p. 3, at pp. 28-29, para. 65; case concerning *United States Diplomatic and Consular Staff in Tehran (United States v. Iran), I.C.J. Reports 1980*, p. 3, at pp. 9-10, para. 12; p. 17, para. 27.)

163. The decision of the Court in the *Nuclear Tests cases (Australia v. France)* (*Judgment, I.C.J. Reports 1974*, p. 253), is of particular significance for present purposes. In those cases the Court held that a statement made in public by the French President, with the intention to be bound, had the character of a legal undertaking. (*I.C.J. Reports 1974*, p. 267, para. 43.) The key passages in the Judgment are as follows:

> "49. Of the statements by the French Government now before the Court, the most essential are clearly those made by the President of the Republic. There can be no doubt, in view of his functions, that his public communications or statements, oral or written, as Head of State, are in international relations acts of the French State. His statements, and those of members of the French Government acting under his authority, up to the last statement made by the Minister of Defence (of 11 October 1974), constitute a whole. Thus, in whatever form these statements were expressed, they must be held to constitute an engagement of the State, having regard to their intention and to the circumstances in which they were made.
>
> 50. The unilateral statements of the French authorities were made outside the Court, publicly and *erga omnes*, even though the first of them was communicated to the Government of Australia. As was observed above, to have legal effect, there was no need for these statements to be addressed to a particular State, nor was acceptance by any other State required. The general nature and characteristics of these statements are decisive for the evaluation of the legal implications, and it is to the interpretation of the statements that the Court must now proceed. The Court is entitled to presume, at the outset, that these Statements were not made *in vacuo*, but in relation to the tests which constitute the very object of the present proceedings, although France has not appeared in the case." (*Ibid.*, pp. 269-270.)

The force and significance accorded to the statements of senior officials in the *Nuclear Tests* cases did not relate to any question of establishing State responsibility as such, but it may be observed that the issue, the viability or mootness of the Australian and New Zealand claims, is of a significance comparable with the imposition of State responsibility. Indeed, the finding of the Court had the effect of freeing France from the judicial imposition of liability for the breaches of international law to which the claims referred.

164. No doubt the circumstances of the *Nuclear Tests* cases were exceptional and yet the fact is that the jurisprudence of the Court has habitually given significance to proof of the *attitude* of States, as indicated by the overall pattern of conduct, including the contents of diplomatic exchanges, statements by individual officials, and silence in the face of public events and the statements of the other Party. Thus in the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, pp. 18-20), the Court made reference to the evidence of "Albania's attitude before and after the disaster of October 22nd, 1946". The context in this instance was precisely that of State responsibility and the issue addressed (as a matter of evidence) was that of Albania's knowledge of the laying of mines in the relevant area.

165. Important examples of reliance upon the conduct of States, in terms of a pattern of behavior which would include the statements of officials, are provided by the *Temple of Preah Vihear* case and the recent decision of the Court in the jurisdiction phase of the present claim of Nicaragua. In the *Temple of Preah Vihear* case the Court considered the course of adoption or acceptance of the "Annex I map" and the boundary indicated thereon. (Case concerning the *Temple of Preah Vihear (Cambodia v. Thailand), Merits, I.C.J. Reports 1962*, p. 6, at pp. 22-29, 32-33.) In its Judgment on Admissibility and Jurisdiction in the present proceedings, the Court recognized in clear terms that the conduct of Nicaragua was evidence of its intention to recognize the compulsory *jurisdiction* of the Court under Article 36, paragraph 2, of the Statute (paras. 43-47). It is true that neither of these examples relates to an issue of State responsibility, but in both cases the evidence of conduct played a major role in determining important issues of law, in the *Temple of Preah Vihear* case the issue of title to territory, and in this case the recognition of the compulsory jurisdiction of the Court.

166. The consideration of the legal basis of the admissibility of evidence in the form of admissions made by government officials, statements of intention by officials and, generally, the significance of the attitude or conduct of a State, is now concluded and the evidence itself can now be approached.

B. Express Admissions Made by President Reagan and Other Responsible Officials of the United States Government

1. Public statements of President Reagan

167. On 10 October 1983 a combined sea and air attack destroyed five oil storage tanks in the port of Corinto, injuring more than 100 persons, and forcing the evacuation of more than 20,000 townspeople because of the fires caused and the danger of explosions. (See Statement of Facts, para. 87.) On 19 October the President of the United States held a news conference at the White House. The Official Transcript from the Office of the Press Secretary to the President records the following question and answer:

> "*Q.* Mr. President, regarding the recent rebel attacks on a Nicaraguan

> oil depot, is it proper for the CIA to be involved in planning such attacks and supplying equipment for air raids? And do the American people have a right to be informed about any CIA role?
>
> *The President.* I think covert actions have been a part of government and a part of government's responsibilities for as long as there has been a government. I'm not going to comment on what, if any, connection such activities might have had with what has been going on, or with some of the specific operations down there.
>
> But I do believe in the right of a country when it believes that its interests are best served to practice covert activity and then, while your people may have a right to know, you can't let your people know without letting the wrong people know, those that are in opposition to what you're doing." (Official Transcript, pp. 169-170, *infra*, Ann. C, Attachment I-2.)

168. The nature of the question addressed to President Reagan is to be noted. It refers to a specific subject-matter, and to a specific source of the attack, and there is no indication of a justification for the action. His reaction is one of substantial approval. No denial of the CIA connection is forthcoming. Indeed, he shows no surprise, and is evidently possessed of prior knowledge of "the specific operations down there".

169. As will be shown in detail in subsequent chapters of this Memorial the attack on the oil installations at Corinto involved breaches of a number of the treaty obligations of the United States and also breaches of customary international law rules relating both to the use of force by States and to the principle of non-intervention. Moreover, the action constituted a breach of international law in that it involved injuring citizens of Nicaragua without any lawful justification, and was a serious violation of the sovereignty and territorial integrity of Nicaragua.

170. The Presidential statement of 19 October 1984, referred to above, is but a part of a series, an entire pattern, of statements made by the President and by other officials speaking deliberately "on the record".

171. At a previous White House press conference on 5 May 1983, President Reagan had made a series of statements concerning the overall direction and sources of support for intervention within Nicaragua using guerrillas as the agents for such intervention:

> "*Q.* Mr. President, can I follow up on something you said earlier? Did I understand you to say that if you were forced to stop aid to the Nicaraguan guerrillas, that you would try to funnel through other countries?
>
> *The President.* No, I was saying that's what the Committee said, that the Committee said we would have to go overt, and, then, in going overt, you can only give the money to another government. And, if you did that, then you would have to be depending on — well, maybe those other governments in Central America would give that money to the freedom fighters in Nicaragua.
>
> Now, if they want to tell us that we can give money and do the same things we've been doing — money, giving, providing subsistence and so forth to these people directly and making it overt instead of covert — that's all right with me. I just don't want the restrictions put on it that they might put on.
>
> *Q.* You'd be willing to accept the idea of overt aid to the anti-Sandinista guerrillas in Nicaragua?
>
> *The President.* Yes, but not if they do it as one individual or more than

one, as suggested on the Hill — that they would do it and, then, we would have to enforce restrictions on the freedom fighters as to what tactics they could use.

And I have said that if we were to do that, then I would expect that the only fair thing would be that the Nicaraguan government would itself impose the same restrictions on the freedom fighters in El Salvador, only I don't call them freedom fighters because they've got freedom and they're fighting for something else. They're fighting for a restraint on freedom.

Q. Can I just — All of a sudden now we're aiding freedom fighters. I thought we were just interdicting supplies into

The President. I just used the word, I guess, 'freedom fighters' because the fact that we know that the thing that brought those people together is the desire, as I said, for the same revolutionary principles that they once fought and have been betrayed in. As I say, they have made it plain. They want what they fought beside the Sandinistas to get. And they have been betrayed. And I thought that the use of freedom fighters was because — I found that it seems as if there is a kind of a bias in the treatment of guerrilla fighters. It depends on what kind of a government they are opposing. And some are treated more kindly than others.

Now, I think the ones in El Salvador who are fighting against an elected government, they are guerrillas. But in reality, when we talk about Nicaragua and everyone says, 'the government in Nicaragua', well, it was a government out of the barrel of a gun. We did not lift a hand for the existing government of Nicaragua, because we did not believe that it was treating the people fairly.

And here was a revolution that took place that seemed to express all the things we all believe in. Well now, they have not carried out those things. And they are there by force. And what really — other than being in control of the capital, you might say, and having a handle on all the levers — what makes them anymore a legitimate government than the people of Nicaragua who are asking for a chance to vote for the kind of government they want?

The Press. Thank you, Mr. President." (Official Transcript, pp. 168-169, *infra*, Ann. C, Attachment I-1.)

172. These exchanges between the President and the press on 5 May 1983 involve a series of admissions that the United States was habitually and systematically giving aid to mercenaries carrying out military operations against the Government of Nicaragua. The element of debate in the exchange is related to the modalities of such aid and not to the fact of its happening or the aims behind the policy of giving such aid. Of particular evidential significance is the following question and answer:

> "*Q.* You'd be willing to accept the idea of overt aid to the anti-Sandinista guerrillas in Nicaragua?
>
> *The President.* Yes, but not if they do it as one individual or more than one, as suggested on the Hill — that they would do it and, then, we would have to enforce restrictions on the freedom fighters as to what tactics they could use." (*Ibid.*, pp. 168-169, *infra*.)

173. The general context supports the view that the President accepts responsibility for aid to the guerrillas in Nicaragua on the existing "covert" basis, and is also willing to move on to the giving of "overt" aid. The particular significance of the President's reply lies in the fact that it is accepted that the United States has the means to "enforce restrictions" on the tactics of the guerrillas in

Nicaragua. Restrictions can only be "enforced" if there is a situation involving the elements of direction and control.

174. In an interview given in the White House on 28 March 1984 President Reagan used language which clearly indicated that the United States was assisting those who were, in the phrasing of the question to which the President was responding, "seeking to overthrow a government that we have diplomatic relations with". The President's reply makes no attempt to deny the facts — neither the fact of giving assistance to the guerrillas nor the fact of having the purpose of overthrowing the Government of Nicaragua. His reply includes the following passage:

> "And I see no dichotomy in our supporting the government, the democratic government of El Salvador, and the contras here — and we've made it plain to Nicaragua — made it very plain that this will stop when they keep their promise and restore democratic rule. And have elections. Now, they've finally been pressured, the pressure's led to them saying they'll have an election. I think they've scheduled it for next November. But, there isn't anything yet to indicate that that election will be anything but the kind of rubber-stamp that we see in any totalitarian government. How do you have — there aren't rival candidates, there aren't any rival parties, and how would they campaign without a free press?" (Official Transcript, p. 171, *infra*, Ann. C, Attachment I-4.)

175. This passage, taken with the remainder of the reply, is an unequivocal and, indeed, forceful, confirmation of the fact that the United States Government is the controlling agent behind the insurgency. The mercenaries are presented as an instrument of United States policy. When the aims of that policy are achieved, then, in the words of President Reagan, "this will stop".

176. This series of official Presidential admissions culminated in the period during which the present Memorial was under preparation. President Reagan, in addition to admitting United States responsibility for mercenary activities, gave clear evidence of the purpose, both past and present, of United States involvement with the mercenaries. In a series of public statements he reaffirmed the administration's policy of giving active support and assistance to the forces attacking Nicaragua. (See generally, Statement of Facts, paras. 133-150, and in particular the 11 February 1985 Interview with the *New York Times*, Official Transcript, Ann. C, Attachment I-12; Radio Address of 16 February 1985, Official Transcript, Ann. C, Attachment I-13; News Conference of 21 February 1985, Official Transcript, p. 184, *infra*, Ann. C, Attachment I-14.) The questions and answers appearing on the official transcript of the News Conference on 21 February 1985 are of particular significance.

> "*Q.* Mr. President, on Capitol Hill — on Capitol Hill the other day, Secretary Shultz suggested that a goal of your policy now is to remove the Sandinista government in Nicaragua. Is that your goal?
>
> *The President.* Well, removed in the sense of its present structure, in which it is a communist totalitarian State, and it is not a government chosen by the people. So, you wonder sometimes about those who make such claims as to its legitimacy. We believe just as I said Saturday morning, that we have an obligation to be of help where we can to freedom fighters and lovers of freedom and democracy, from Afghanistan to Nicaragua and wherever there are people of that kind who are striving for that freedom.
>
> And we're going to try to persuade the Congress that we can legitimately go forward and hopefully go forward on a multi-year basis with the Scoop

Jackson plan for trying to bring development and help to all of Central America.

Q. Well, Sir, when you say remove it in the sense of its present structure, aren't you saying that you advocate the overthrow of the present government of Nicaragua?

The President. Well, what I'm saying is that this present government was an element of the revolution against Somoza. The freedom fighters are other elements of that revolution. And once victory was attained, the Sandinistas did what Castro had done, prior to their time, in Cuba. They ousted and managed to rid themselves of the other elements of the revolution and violated their own promise to the Organization of American States, and as a result of which they had received support from the Organization, that they were — their revolutionary goal was for democracy, free press, free speech, free labor unions, and elections, and so forth, and they have violated that.

And the people that are fighting them, the freedom fighters opposing them, are Nicaraguan people who want the goals of the revolution restored. And we're going to try to help.

Q. Is the answer yes, Sir? Is the answer yes, then?

The President. To what?

Q. To the question, aren't you advocating the overthrow of the present government? If

The President. Not if the present

Q. — you substitute another form of what you say was the revolution?

The President. Not if the present government would turn around and say, all right, if they'd say, 'Uncle'. All right, come on back into the revolutionary government and let's straighten this out and institute the goals.

* * *

Q. Mr. President, I wonder if we might return to Nicaragua. In answer to Sam's question when he pressed you, you said that you — or you seemed to be saying that you wouldn't advocate the overthrow of the government, not if the present government would turn around and say, 'Uncle'. Well, aren't you really saying that you want the present government out, and secondly, Sir, should the United States be trying to influence a government of another nation in this hemisphere?

The President. I think what we're doing and what we have proposed doing is within the U.N. Charter and within the OAS Charter and the right of the people to do what the freedom fighters are doing. And it is — you can say — it's like saying, 'Is the glass half full or half empty?' You can say we're trying to oust the Sandinistas by what we're saying.

We're saying we're trying to give those who fought a revolution to escape a dictatorship, to have democracy, and then had it taken away from them by some of their fellow revolutionaries — we're saying we want them to have a chance to have that democracy that they fought for. And I don't think the Sandinistas have a decent leg to stand on.

What they have done is totalitarian. It is brutal, cruel. And they have no argument against what the rest of the people in Nicaragua want.

Q. Well, Sir, what about the specific prohibitions by the United States

> Congress against the kind of conduct which would overthrow their government or provide money to do so.
>
> *The President.* The — what?
>
> *Q.* I'm referring to the Boland Amendment, Sir. The specific prohibitions of the Congress.
>
> *The President.* I think that some of the proposals that have been made in Congress have lacked a complete understanding of what is at stake there and what we're trying to do." (Official Transcript, pp. 184-185, *infra*, Ann. C, Attachment I-14.)

177. Major admissions and assertions by President Reagan have continued up to the time of submitting the present Memorial. In a series of speeches and interviews, he has reiterated his Administration's policy of providing active support for the mercenaries. (See Address to Conservative Political Action Committee, 1 March 1985, Official Transcript, p. 185, *infra*, Ann. C, Attachment I-15; interview with *Business Week*, 11 March 1985, p. 69, Ann. C, Attachment I-16; Radio Address to the Nation, 30 March 1985, Ann. C, Attachment I-17.) On 4 April 1985, at a press conference in the White House, President Reagan put forward what he termed "a peace proposal" that by itself is an admission both of United States control of the guerrillas and the purposes for which they are used. He said:

> "I'm calling upon both sides to lay down their arms and accept the offer of church-mediated talks on internationally supervised elections and an end to the repression now in place against the Church, the press and individual rights.
>
> To members of the Democratic Resistance, I ask them to extend their offer of a cease-fire until June 1st.
>
> To the Congress, I ask for immediate release of the $14 million already appropriated. While the cease-fire offer is on the table, I pledge these funds will not be used for arms or munitions. The funds will be used for food, clothing, medicine and other support for survival. The Democratic opposition cannot be a partner in negotiations without these basic necessities.
>
> If the Sandinistas accept this peace offer, I will keep my funding restriction in effect. But peace negotiations must not become a cover for deception and delay. If there is no agreement after 60 days of negotiations, I will lift these restrictions, unless both sides ask me not to." (Official Transcript, pp. 188-189, *infra*, Ann. C, Attachment I-19.)

The so-called "peace proposal" is thus a conditional offer — in effect an ultimatum: agree to fundamental changes in the government of Nicaragua within 60 days or face a renewed onslaught from the mercenaries. The "peace proposal" emphasizes that the activities of the United States in conjunction with the mercenaries are simply a political instrument intended to achieve a set of political objectives. The activities have no purpose compatible with international law or with self-defense.

2. *Public statements of other senior Administration officials*

178. Apart from statements of President Reagan, other senior United States officials have openly acknowledged the assistance given by the United States to guerrillas carrying out paramilitary operations against Nicaragua. In 1981 the then Secretary of State, Alexander M. Haig, gave evidence to the House Committee on Foreign Affairs during which, in answer to a question, he refused

to give an assurance that the United States would not participate in "any effort to overthrow or destabilize the current government of Nicaragua". (Testimony before the Committee on Foreign Affairs, Ann. C, Attachment II-1.)

179. In 1983 the Hon. Fred C. Ikle, Under Secretary of Defense for Policy, characterized United States policy toward Nicaragua in very clear terms. In a public address to the Baltimore Council on Foreign Affairs, Mr. Ikle defended the "covert activities" program in Central America and accused those opposing such a program as voting "to establish a sanctuary for the Sandinistas", and turning Nicaragua "into a sanctuary . . . in which the US-supported forces could not operate". (Official Transcript, p. 200, *infra*, Ann. C, Attachment II-2.) In the same speech, Mr. Ikle also stated that "the psychological impact from cutting off US assistance to the Nicaraguan resistance forces fighting for democracy in their native land would be severe". (*Ibid.*, p. 200, *infra*.) The entire speech constitutes an open admission of United States complicity with the mercenaries operating against the Nicaraguan Government.

180. Secretary of State Shultz, in a press conference on 20 March 1984, said that the policy of the Administration was "to keep the pressure on Nicaragua" (Official Transcript, p. 201, *infra*, Ann. C, Attachment II-3). And again on 19 February 1985, testifying before the House Foreign Affairs Committee he said: "What we have in Nicaragua is a government that's a bad-news government. Now, how can that get changed? We'd like to see them changed." (*WP* 2/20/85; *NYT* 2/20/85.)

181. On 25 January 1985, Vice-President Bush in a speech to the Executive Forum said that aid to the guerrillas "who are fighting the communist Sandinistas must go forward" (Official Transcript, p. 214, *infra*, Ann. C, Attachment II-8).

182. General Paul F. Gorman, retiring commander of the United States Southern Command, based in Panama and covering all United States forces in Central America, testified before the Senate Armed Services Committee that aid to the mercenaries was necessary because "the Sandinistas must be brought a reckoning" (Official Transcript, p. 219, *infra*, Ann. C, Attachment II-11).

183. Reference to additional examples may be found in the Statement of Facts, Chapter I, *supra*.

3. *House of Representatives: Report of the Permanent Select Committee on Intelligence*

184. The Report of the Permanent Select Committee on Intelligence of the House of Representatives, published on 13 May 1983, reviews the United States military and paramilitary operations in Nicaragua to that time (Ann. E, Attachment 1). It is replete with references to the scale and purpose of the United States involvement with the counterrevolutionary forces. The unique responsibilities of this Committee gives special weight to its statements. Under United States law, the President is legally required to report "covert activities" to the Intelligence Committees of the House and Senate (Title 50, US Code, Section 413, Ann. D, Attachment 3). The intelligence committees, in turn, are responsible for monitoring those activities on behalf of their respective Houses, and for keeping them generally informed on the nature and scope of those activities. The May 1983 Report was issued in discharge of these responsibilities, and in support of legislation proposed by Congressman Boland, the Chairman of the Committee, that would have cut off funding for the mercenaries.

185. The following passages from the House Intelligence Committee Report of 13 May 1983 are particularly striking:

> "The fact of US support for the anti-Sandinista insurgents has had further

> unfortunate repercussions. Having twice sent US troops to Nicaragua in this century, this country has once again been cast in the role of interventionist. The United States has allied itself with insurgents who carry the taint of the last Nicaraguan dictator, Somoza. It has, in effect, allowed the spotlight of international opprobrium to shift from Sandinista attempts to subvert a neighboring government to a US attempt to subvert that of Nicaragua. If ever there was a formula for US policy failure in Central America, it would involve two elements: (1) acts that could be characterized as US interventionism in Nicaragua; and (2) an alliance with the followers of Somoza. Both characterisations can now be made. The isolation within the international community that Nicaragua should feel has been diminished by this doubly insensitive involvement by the US in Nicaraguan affairs.
>
> As it watched the development of the Nicaraguan insurgency and as members of the Committee concluded that US policy was employing the wrong means to achieve its objectives, the Committee sought alternative solutions to achieve the same ends. It attempted restraints on the range of activities supported by the US. Two attempts of this kind were the language of the fiscal year 1983 Intelligence Authorization Act which sought to limit insurgent activity to arms interdiction, and the Boland Amendment, an amendment to the fiscal year 1983 Defense Appropriations Act that prohibited assistance for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.
>
> Both proved ineffective as moderate curbs on insurgent activity or US policy. Hostilities within Nicaragua intensified. There was no discernible effect on the arms flow. Throughout, executive branch officials made little effort to mask US support, going so far in April 1983 as to encourage media discussion." (Ann. E, Attachment 1, pp. 244-245, *infra*.)

C. *The Particular Relevance of Express Admissions on the Part of United States Officials*

186. At this point it will be of assistance to the Court if the particular types of relevance which attach to the express admissions adduced as evidence are indicated. The types of relevance may be summarized as follows:

(*a*) As evidence of *control* over the mercenaries carrying out military operations in and against Nicaragua.

(*b*) As evidence of *intention* and *purpose* in relation to United States assistance and control: in particular, the exertion of pressure upon the lawful government of Nicaragua by the use of force and, eventually, the violent overthrow of that Government.

(*c*) As evidence of *responsibility* for particular patterns of activity, including the overall military and paramilitary operations of the counterrevolutionaries, and responsibility for the mining of Nicaraguan ports.

187. The weight and general credit of these various statements is enhanced by the following factors:

(*a*) They were made in the course of a public duty.

(*b*) They were made in the discharge of a responsibility to make a public accounting.

(*c*) They were made in public by senior officials of the United States Government, or persons authorized to make statements on behalf of agencies of that Government.

(*d*) They are matters of public record.
(*e*) They form part of a "consistent and concordant" pattern of statements and actions.

188. The express admissions are relevant to the following causes of action invoked by Nicaragua in its Application:

(*a*) The use or threat of force by agents of the United States in the form of military and paramilitary operations carried out by forces under the control of the United States.
(*b*) Intervention in the internal affairs of Nicaragua.
(*c*) The mining of Nicaraguan ports in time of peace and without lawful justification.
(*d*) Violation of the sovereignty of Nicaragua.

D. Official Descriptions of United States Operations as "Covert Action"

189. The various statements contained in the documentation available consistently describe the military and paramilitary operations against Nicaragua as "covert action". It is not absolutely clear what the connotation of the phrase "covert" might be, since United States involvement and responsibility for this action has long been acknowledged. Certainly, the term refers to modalities, and the intention and purpose behind the action remain clear and undiluted. There is, however, one aspect of the terminology which is worthy of special notice. The usage involves an implied admission of responsibility, since it carries the implication that the action need not and cannot be given a legal justification.

190. In this context it is significant that, prior to the filing of the Nicaraguan Application in April 1984, United States officials habitually made no attempt to invoke, let alone develop with precision, any legal justification for the use of force against Nicaragua or the associated episodes such as aerial trespass and the mining of ports. However, some three years after the operations began, a legal justification was belatedly invoked.

Section IV. The Evidential Significance of the Reference to Collective Self-Defense by the United States in the Previous Proceedings in this Case

191. This section is devoted to a particular question arising from the Pleadings relating to the Request for Interim Measures of Protection and the Jurisdiction and Admissibility Phase of the proceedings based upon Nicaragua's Application of 9 April 1984. On several occasions in the course of those pleadings the United States asserted that the operations against Nicaragua in the material period were justified by virtue of the legal category of collective self-defense. In Nicaragua's submission, this assertion has considerable significance for present purposes. The United States is not appearing in the proceedings on the merits and is thus not offering evidence to establish the justification of collective self-defense on the facts. However, matters of defense must be supported by evidence furnished by the Respondent State before the Court, as the Court had occasion to point out in the case concerning *United States Diplomatic and Consular Staff in Tehran* (*I.C.J. Reports 1980*, p. 38, para. 182). (See also Chap. III, Sec. III.)

192. These assertions based on self-defense stand on the record and constitute formal admissions that the United States is a full participant in the military

operations which are mounted by forces under its control and directed against the territory and people of Nicaragua. To assert the justification of collective self-defense is to recognize substantial participation in and control over the military operations so characterized.

193. In the oral hearings relating to the Request for the indication of provisional measures, the Agent of the United States, Mr. Davis Robinson, in his opening statement placed the following on record:

> "Third and finally, Nicaragua's Application and request improperly call upon this Court in the circumstances of this case to make judgments and to impose measures potentially impairing the inherent right of States to individual and collective self-defence under Article 51 of the United Nations Charter." (I, p. 86, 27 April 1984.)

194. The text of the Court's Order of 10 May 1984 refers to the invocation of collective self-defense in the course of argument, and also to the contention by the Agent of Nicaragua that neither the United States, nor the other States referred to, had made any claim of self-defense, individual or collective, prior to the Application (Order of 10 May 1984, *I.C.J. Reports 1984*, pp. 181-182, para. 30).

195. The matter of collective self-defense was given great prominence in the Counter-Memorial submitted by the United States on the Questions of Jurisdiction and Admissibility. (See para. 6; para. 202; paras. 515-519.) The following passages from the United States Counter-Memorial are of particular relevance for present purposes:

> "516. It is well-settled that the right of individual or collective self-defense is an inherent right of States. The special and extraordinary nature of the right of individual or collective self-defense is explicitly recognized in the prescription of Article 51 that 'nothing in the present Charter shall impair' that right. Article 92 of the Charter makes the Court an 'organ of the United Nations' and further provides that that Statute of the Court is an 'integral part' of the Charter. Action taken by the Court is therefore a matter under the Charter, and any such action that had the effect of impairing the inherent right of a State to engage in individual or collective self-defense cannot be reconciled with the express language of Article 51, which provides a role in such matters only to the Security Council. Article 51 permits only the Security Council to take action with respect to claims of self-defense, and a judgment on the question by the Court would constitute an entry into the field of competence reserved to the Council in this regard.
>
> 517. A judgment of the Court that purported to deny the validity of a State's claim to be engaged in self-defense whether individually or collectively, must necessarily 'impair' the 'inherent' right guaranteed to that State by Article 51 of the Charter. To the extent that that State claims, *as does the United States here*, to be engaged in particular in the exercise of the inherent right of self-defense by providing, upon request, proportionate and appropriate assistance to third States not before the Court, any such judgment would necessarily impair the inherent rights guaranteed to those third States as well. The relief claimed by Nicaragua, Application, para. 26, in particular the denial of assistance to third States, would have precisely this result.
>
> 518. A judgment of the Court could not at once be incompatible with Article 51 of the Charter, and binding on the parties under Article 94 of the Charter and Article 59 of the Statute of the Court. Such a contradictory result could not have been intended by the architects of the Charter, whose

> clear design was to leave the resolution of ongoing armed conflict to the exclusive competence of the political organs.
>
> 519. It is, moreover, unnecessary for an adjudication of a Party's Article 51 claims to proceed to judgment for that Party's inherent right of individual and collective self-defense to be impaired. The fact that such claims are subjected to judicial examination in the very midst of the conflict that gives rise to them may alone be sufficient to constitute such impairment. This is particularly the case where, as here, the Party instituting proceedings has evidently done so for the purpose of securing political and other extralegal advantages in order to further its own aims in respect of the underlying conflict. An eventual judgment in the other Party's favor could not restore the impairment that its interests may have undergone in the interim. The Court should not admit such an abuse of the judicial process." (Emphasis added.)

196. These passages carry the message, conveyed with an absolute clarity, that the United States actually "claims" to be engaged in the exercise of the right of individual or collective self-defense in accordance with Article 51 of the Charter of the United Nations. (See especially paragraph 517 set forth above [p. 52].) The assertion was repeated in the course of the oral hearings on the questions of jurisdiction and admissibility. (See the speech of the Counsel for the United States, **III**, pp. 248-250 (Professor Sohn); and *ibid.*, pp. 252, 266, 268, 269, 271 (Professor Moore).) And in its Judgment on this phase of the case the Court referred to this aspect of the United States argument on admissibility (*I.C.J. Reports 1984*, pp. 432-433, para. 91). The claim to have acted by virtue of the right of collective self-defense is repeated in the statement made by the State Department on 18 January 1985 concerning "US Withdrawal from the Proceedings Initiated by Nicaragua in the International Court of Justice" (Official Transcript, p. 223, *infra*, Ann. C, Attachment III-4).

197. In the submission of Nicaragua, these statements, all matters of public record and many of them made in the course of pleadings presented to this Court, constitute important admissions of direct and substantial United States involvement in the military and paramilitary activities in and against Nicaragua. A claim by a State to be exercising the inherent right of collective self-defense necessarily connotes participation and control of the military action referred to, and not merely forms of indirect support restricted to funding and the supply of arms.

198. The statements made on behalf of the United States in the course of the pleadings in the Jurisdiction and Admissibility phase of the present case may also be evaluated in a different manner. In the Merits phase of the proceedings such statements, unless modified in the course of argument by the side originally making them, have the effect of an estoppel as between the Parties. This principle is simply an application of the principles of good faith and consistency in the procedural sphere. In order to mount its arguments relating to admissibility, the Respondent State placed on record repeated assertions that the defense or justification of collective self-defense was applicable on the facts. Nicaragua disputes that the defense is applicable, but can still point to and rely upon what is admitted as a necessary consequence of making the claim, namely the direct and substantial involvement of the United States in the military operations to which the Application of Nicaragua refers.

199. The principle of estoppel by record is perfectly compatible with the principles of judicial reasoning which form part of the general principles of procedural law. The general principle of consistency and the presumption against contradiction is recognized in the doctrine of public international law. (See Guggenheim, *Traité de*

droit international public, 1954, Vol. II, pp. 158-159; Lauterpacht, *The Development of International Law by the International Court*, 1958, pp. 167-172; Rousseau, *Droit international public*, 1971, Vol. I, para. 309, pp. 387-388; Dominice, *En Hommage à Paul Guggenheim*, 1968, pp. 327-365; Martin, *L'estoppel en droit international public*, 1979, pp. 183-184, para. 68; McNair, *Law of Treaties*, 1961, p. 485.) As Judge Ammoun pointed out in his separate opinion in the *North Sea Continental Shelf* cases, the *allegans contraria non audiendus est* is a general principle of law forming part of the law of nations. (*North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands)*, *Judgment*, *I.C.J. Reports 1969*, p. 3, at pp. 120-121.)

200. In any event, apart from the application of the principles of estoppel referred to in the preceding paragraphs, the consistent and affirmative use of the category of collective self-defense has an important legal consequence in that such conduct constitutes the *acceptance* of responsibility for the military and paramilitary operations in and against Nicaragua. The matter can be expressed in the form that the United States has publicly recognized and adopted its legal responsibility for the activities concerned. (Cf. the *Temple of Preah Vihear* case, *I.C.J. Reports 1962*, pp. 22-27, 32.) Moreover, this acceptance is a matter of public record and has been expressed in the face of the Court in the incidental proceedings relating to the present case.

201. The fact that the acts of acceptance of responsibility took place in the course of the incidental proceedings in no way affects their legal significance, since the acts of acceptance were the result of the voluntary decision of the United States to enter upon certain issues going to the merits in the process of developing its arguments relating to admissibility.

202. There is a further aspect of the United States claim to have been acting in collective self-defense which bears upon the issues of proof, and in particular the weight or credibility of the claim. As the Nicaraguan Application has indicated, President Reagan first authorized "covert activities" by the Central Intelligence Agency directed against Nicaragua on 9 March 1981, by means of a formal "presidential finding". The funding and carrying out of various clandestine activities were to continue, year by year, for three full years before it occurred to any senior official to offer a legal excuse for United States policies towards Nicaragua. The first such reference — to collective self-defense — appears in an address by the United States Ambassador to the United Nations, Jeanne J. Kirkpatrick, to the American Society of International Law on 12 April 1984 (Address, p. 206, *infra*, Ann. C, Attachment II-4.) Other such references (reported above) appeared in the speeches of United States Counsel in the oral proceedings on interim measures of protection and in the written and oral procedure in the Jurisdiction phase of the present case.

203. The sudden and belated attempt to justify the military operations *three years after the beginning of such operations* could have no credibility whatsoever. During that substantial period the operations had been "covert" and, in the course of many authoritative pronouncements from official sources, no legal justification had been offered. Moreover, there is no evidence to suggest that there has been any critical evolution in the factual background to justify the innovation after the date of the Nicaraguan Application on 9 April 1984. In terms of ordinary legal logic, it was too late at that stage to offer a justification which carries any weight or credibility.

204. The acceptance of responsibility inherent in the claim to have acted by virtue of collective self-defense is to be placed alongside the other evidence of adoption and approval of the military operations directed against Nicaragua considered earlier in the present chapter.

Section V. Recourse to Inferences of Fact and Circumstantial Evidence

205. In the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, p. 4), the Court made an important statement concerning the admissibility of indirect evidence. The Court stated:

> "It is clear that knowledge of the minelaying cannot be imputed to the Albanian Government by reason merely of the fact that a minefield discovered in Albanian territorial waters caused the explosions of which the British warships were the victims. It is true as international practice shows that a State on whose territory or in whose waters an act contrary to international law has occurred may be called upon to give an explanation. It is also true that that State cannot evade such a request by limiting itself to a reply that it is ignorant of the circumstances of the act and of its author. The State may up to a certain point be bound to supply particulars of the use made by it of the means of information and inquiry at its disposal. But it cannot be concluded from the mere fact of the control exercised by a State over its territory and waters that that State necessarily knew or ought to have known of any unlawful act perpetrated therein nor yet that it necessarily knew, or should have known, the authors. This fact, by itself and apart from other circumstances, neither involves *prima facie* responsibility nor shifts the burden of proof.
>
> On the other hand, the fact of this exclusive territorial control exercised by a State within its frontiers has a bearing upon the methods of proof available to establish the knowledge of that State as to such events. By reason of this exclusive control, the other State, the victim of a breach of international law, is often unable to furnish direct proof of facts giving rise to responsibility. Such a State should be allowed a more liberal recourse to inferences of fact and circumstantial evidence. This is recognized by international decisions. It must be regarded as of special weight when it is based on a series of facts linked together and leading logically to a single conclusion." (*I.C.J. Reports 1949*, p. 18. Referred to also by the Court in its Judgment of 26 November 1984, *I.C.J. Reports 1984*, p. 437, para. 101.)

206. These passages were related, as one would expect, to the facts of the case in hand. However, so far as the principle is concerned — the necessity of recourse to inferences of fact and circumstantial evidence — there are important parallels with the evidential picture presented in the circumstances of the Nicaraguan Application. The parallels include the following factors:

(*a*) The fact, which is a matter of public knowledge, that the United States has major bases and operational facilities on the territory of Honduras continuously available for the use of its forces and for the mounting of military and paramilitary operations against Nicaragua.

(*b*) The obvious inability of Nicaragua to have access to these sources of illegal activity and the fact that Nicaragua has no sophisticated surveillance capacity.

(*c*) The fact that the formal authorization and the actual planning and mounting of the operations against Nicaragua is clandestine.

In the submission of Nicaragua, it follows that in the circumstances of the present case, and within certain proper limits, recourse to indirect evidence is fully justified.

A. Matters of Public Knowledge

207. It is a generally accepted principle that matters of public knowledge form a category of admissible evidence and that in certain types of situations such evidence may have a very significant role to play. In the circumstances of the present case the essential facts are matters of public knowledge. This is shown by the vast collection of reports in the press, reporting directly or otherwise reflecting the views of United States officials concerning the activities of agents of the United States directed against Nicaragua. These reports not only demonstrate that the essential facts of United States policies and involvement are matters of public knowledge but they form part of the pattern of facts which indicate the existence of a system of conduct and also go to show the coherence and consistency of the evidence as a whole.

208. The Judgment of the Court in the case concerning *United States Diplomatic and Consular Staff in Tehran* states that the essential facts in that case were "for the most part, matters of public knowledge in the world press and in radio and television broadcasts from Iran and other countries". (*I.C.J. Reports 1980*, p. 9, para. 12.) In the present case the persistent press reports in leading United States newspapers have the particular quality and significance that they closely relate to, and reflect, briefings emanating from officials, and many statements by officials expressly directed to the press. In any case the evidence of matters of public knowledge exhibits a significant complementarity with the other evidence presented to the Court by Nicaragua.

B. Evidence of a System, a General Policy and a Pattern of Activity

209. A particular form of indirect evidence is the existence of a *system* emerging from a variety of evidential material, indicating a *consistent pattern* of intentions, purposes and acts over a long period of time. Such a consistent pattern of evidence justifies the inference that the events are connected, are part of a deliberate policy, and are not coincidental. In particular, the existence of a system or pattern visible in the mass of evidence excludes the possibility of an explanation of the activities compatible with the innocence of the Respondent State. The drawing of inferences and conclusions from the existence of a system or pattern of evidence may be described with equal accuracy either as a recourse to indirect evidence or as the ordinary and necessary process of judicial evaluation of evidence.

210. The particular system or pattern visible in the present case consists, in the submission of the Government of Nicaragua, of the following elements:

(*a*) The sequence and coincidence of the authorization of financing by Congress and the subsequent practical steps taken by way of implementation.
(*b*) The persistent recruiting and employment of armed units based on the territory of Honduras and paid and maintained by the United States.
(*c*) The carrying out of regular attacks by such units against targets on the territory of Nicaragua.
(*d*) The continuous funding of such operations by the United States.
(*e*) The intent on the part of the United States to cause damage to Nicaragua, to exert pressure generally for political ends, and, in particular, to bring about the overthrow of the Government of Nicaragua.
(*f*) The use of particular mechanisms, described as "covert action", involving the Central Intelligence Agency and its operational resources.
(*g*) Prior to April 1984, the absence of any pretense or assertion of the existence

of any legal justification for the activities of the mercenaries acting on behalf of the United States.

211. The evidence establishing this particular system or pattern, more fully set forth in the Statement of Facts, can be summarized as follows:

(a) In the first place the military and paramilitary operations against Nicaragua have been expressly authorized by an Act of Congress of the United States. Section 108 of the Intelligence Authorization Act for Fiscal Year 1984 provides:

> "During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activity may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual." (Ann. D, Attachment 4, p. 239, *infra*.)

(b) Apart from the original funding authorized by Congress, the Administration has systematically sought to increase the level of funding, and this persistence is clear evidence of a consistent policy stretching over a period of four years.

(c) The existence of a pattern of administrative practices whereby financial assistance and logistical support were provided to sustain, control and deploy armed units carrying out hostile operations against the Applicant State. All the details of the arrangements are not available but the key elements are set forth in the Report of the Permanent Select Committee on Intelligence of the House of Representatives, 13 May 1983. (Ann. E, Attachment 1. See also, e.g., *WSJ* 3/4/85; *WSJ* 3/5/85; *LAT* 3/4/85; *LAT* 3/5/85.)

(d) The consistent "attitude" of the United States Government as revealed in the express admissions made by the President and other senior officials. Both in the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, pp. 18-20), and in the case concerning *United States Diplomatic and Consular Staff in Tehran* (*I.C.J. Reports 1980*, pp. 33-35, paras. 70-75), the Court gave particular significance to the attitude and general policy of the State authorities indicated by express public pronouncements and by general conduct.

(e) The evidence available in the form of admissions by the leaders of the mercenary forces. See, for example, the statements of the Commander of the "Nicaraguan Democratic Force", reported in the press on 20 February 1985. (*International Herald Tribune* 2/20/85.)

(f) Numerous press reports set forth in Annex F.

Conclusions

212. The materials set forth in the present chapter provide a guide to the highlights and the particular qualities of the evidence presented in full in Chapter I. The responsibility of the United States for the military and paramilitary activities of the guerrilla forces operating against Nicaragua is established on the basis of the following forms of proof:

(a) The express admissions made by President Reagan and other responsible officials of the United States Government.

(b) Statements authorized by agencies of the United States Government.

(c) The facts recorded in the Report of the United States House of Representatives Permanent Select Committee on Intelligence of 13 May 1983, and other statements of Congressmen and Senators with responsibility in the premises.

(*d*) The reference to collective self-defense on the part of responsible officials of the United States Government, and, in particular, in the previous proceedings in this case.

(*e*) The necessary inferences to be drawn from the indirect evidence of the organization and funding of mercenary operations by agents of the United States.

(*f*) The adoption and approval of the actions of the mercenary forces on the part of the United States Government since March 1981.

(*g*) The fact that United States direction and control of the "covert" actions directed against Nicaragua are matters of public knowledge.

(*h*) The overwhelming evidence of a system, a general policy, and a pattern of activity, establishing United States direction and control of military and paramilitary activities directed against Nicaragua, and United States intentions to coerce, and, if possible, overthrow the lawful Government of Nicaragua.

PART II

THE CONVENTIONAL LAW

CHAPTER III

THE ACTIONS OF THE UNITED STATES ESTABLISHED BY THE EVIDENCE BEFORE THE COURT CONSTITUTE THE THREAT AND USE OF FORCE AGAINST NICARAGUA IN VIOLATION OF ARTICLE 2 (4) OF THE UNITED NATIONS CHARTER, FOR WHICH THE UNITED STATES IS LIABLE UNDER INTERNATIONAL LAW

213. Article 2 (4) of the United Nations Charter prohibits the use of force as an instrument of foreign policy. This prohibition was the great departure of the Charter from previous efforts to establish an international rule of law. It is the cornerstone of the normative and institutional system established by the Charter. It has come to be recognized as *jus cogens* — an overriding and unmodifiable prohibitory norm. Former President of the Court Jiménez de Aréchaga has written:

> "The paramount commitment of the Charter is Article 2, paragraph 4, which prohibits the threat or use of force in international relations. This is the cardinal rule of international law and the cornerstone of peaceful relations among States." ("International Law in the Past Third of a Century", 159 Hague *Recueil* (1978-I), p. 87.)

On the matter of *jus cogens*, Lord McNair, in his authoritative work on the Law of Treaties, says that Article 2 (4) "create[s] legal rights and duties [that] possess a constitutive character, with the result that any member States cannot contract out of them or derogate from them . . ." (McNair, *The Law of Treaties*, 1961, p. 217). Article 2 (4) provides:

> "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations."

214. As this Chapter will demonstrate, the evidence before the Court establishes overwhelmingly that the United States has violated this norm with respect to Nicaragua — flagrantly, repeatedly and without legal justification.

First, the United States has used force against Nicaragua within the meaning of Article 2 (4): (*a*) *through the activities of its own military and intelligence personnel*, (*b*) by its actions in recruiting, organizing, training, supplying, *directing and controlling a mercenary army* making continuous and systematic depredations into the territory of Nicaragua with the object of overthrowing the Government, and (*c*) by *adopting and ratifying* the actions of the mercenary forces.

Second, this use of force was "against the territorial integrity and political independence" of Nicaragua, within the meaning of Article 2 (4).

Third, there is no justification in law for these actions in contravention of Article 2 (4).

215. The Court will be aware that these actions of the United States have been taken in a situation where it is nominally at peace with Nicaragua. No state of war exists between the two countries. The United States recognizes the present government of Nicaragua as the legitimate government. The two States maintain full diplomatic relations; a Nicaraguan ambassador is accredited to Washington, and an ambassador of the United States is in residence in Managua. Yet, as the evidence shows, the United States has waged a relentless "covert" war against Nicaragua for four years.

Section I. The Actions of the United States, as Established by the Evidence, Constitute Use of Force against Nicaragua in Violation of Article 2 (4) of the Charter

A. Direct Action by United States Military and Civilian Employees Is a Use of Force in Violation of Article 2 (4) of the Charter

216. The evidence before the Court reveals numerous instances of direct military action by United States armed forces and by intelligence agents, of both United States and Latin American nationality, employed by or under contract to the United States. In summary,

United States intelligence organizations have conducted armed actions against Nicaraguan ports, airfields, fuel storage facilities and other targets, using United States personnel and hired saboteurs of Latin American nationalities.

United States military and intelligence personnel have accompanied mercenary units on armed incursions inside Nicaragua.

United States military aircraft have violated Nicaraguan airspace on hundreds of occasions.

armed vessels manned by United States personnel have repeatedly violated Nicaraguan territorial waters.

217. The significance of these direct incursions of United States personnel must be evaluated against the background of a continuous and deliberate campaign of intimidation by regular United States land, naval and air forces along the borders of Nicaragua and in the seas off its coast. This campaign has included three major maneuvers each lasting weeks or months and involving thousands of United States ground forces, almost continuous patrolling by naval task forces and aircraft carrier groups, and the construction of permanent bases, camps and airfields for these forces. High ranking United States military officers have reported that United States armed forces are fully prepared, from a technical and logistical standpoint, to carry out missions against Nicaragua. The Administration has announced that these maneuvers will continue through at least 1988. The purpose has not been hidden. At the highest levels, United States officials have repeatedly avowed that the object of this activity is to "put pressure on" the Nicaraguan Government. Indeed, in an example of Orwellian "newspeak", United States officials have denominated this activity as a campaign of "perception management", designed to keep the Nicaraguan Government and people in fear of a direct invasion by official United States military forces. These maneuvers constitute, in the words of this Court, a "demonstration of force for the purpose of exercising political pressure". (*Corfu Channel, Merits, I.C.J. Reports 1949*, p. 4, at pp. 22-27.)

218. Direct military action against Nicaragua, conducted by military and civilian personnel in the official service of the United States, is a use of armed force under Article 2 (4) of the United Nations Charter, for which the United States is accountable. The actions of military and civilian personnel of the United States in the line of duty and under the direction of their superiors is, in law, the action of the United States.

219. It hardly needs citation of authority to establish that the acts and omissions of all State organs or agents are attributable to the State. (See Ago, Third Report to the International Law Commission, *Yearbook of the International Law Commission*, 1971, Vol. II, Part I, p. 246.) Thus, military activities conducted by members of the armed forces of the United States or by other officers or employees of the United States must be considered acts of the United States for the purpose of determining its liability under international law.

220. It is sufficient to refer to some of the many provisions in codes on international responsibility, prepared by bodies of experts and individual jurists alike, uniformly accepting the principle that the use of force by organs or agents of a State in violation of international law is attached to that State for purposes of determining the legal responsibility of the State. Among these codes, the most authoritative is the International Law Commission's draft Articles on State Responsibility, prepared by the former Special Rapporteur, Judge Roberto Ago. Article 5 of that draft states:

> "For the purposes of the present articles, conduct of any State organ having that status under the internal law of that State shall be considered as an act of the State concerned under international law, provided that organ was acting in that capacity in the case in question."

Article 6 continues:

> "The conduct of an organ of the State shall be considered as an act of that State under international law, whether that organ belongs to the constituent, legislative, executive, judicial, or other power, whether its functions are of an international or an internal character, and whether it holds a superior or a subordinate position in the organization of the State." (*Yearbook of the International Law Commission*, 1973, Vol. II, pp. 191-198; *ibid.*, 1978, Vol. II, Part II, p. 78.)

221. Again, Article 15 of the 1961 draft Convention on the International Responsibility of States for Injuries to Aliens, prepared by the Harvard Law School, provides that the State is liable for

> "the act or omission of any organ, agency, official or employee of the State acting within the scope of the actual or apparent authority or within the scope of the function of such organ, agency, official or employee" (*Ibid.*, 1969, Vol. II, p. 142.)

222. Draft codes prepared by individual jurists contain clauses with substantially similar language. In this respect, the work of the International Law Commission simply reiterates long-standing principles of international jurisprudence. As early as 1926, for example, a draft Code of International Law prepared by Kokusaiho Gakkwai provided in its first Article that a State is liable for any "wilful act, default or negligence of the official authorities in the discharge of their official functions". (*Ibid.*, Vol. II, p. 141.) For other examples of codes prepared by individual jurists, see *Yearbook of the International Law Commission*, 1969, Vol. II, page 151.

223. As might be expected, the principle that the State is liable for the use of force by its officers or agents in violation of international law is fully acknow-

ledged by the United States itself. The "General Rule as to Attribution" (of conduct to the State) given in section 169 of the *Restatement Second of the Law (Foreign Relations Law of the United States)* of the American Law Institute, states:

> "Conduct of any organ or other agency of a State, or of any official, employee, or other individual agent of the State or of such agency, that causes injury to an alien, is attributable to the State . . . if it is within the actual or apparent authority, or within the scope of the functions, of such agency or individual agent." (American Law Institute, *Restatement of the Law, Second (Foreign Relations Law of the United States)*, 1965, pp. 497 *et seq.*)

And indeed this rule of liability of the State for the acts of its officers and employees is routinely applied in the internal law of the United States.

224. There is abundant evidence before the Court of direct military action against Nicaragua by United States military and intelligence personnel. A few of the most egregious examples are summarized below:

> The mining of Nicaraguan harbors in early 1984 was a United States operation from start to finish. The operation was approved by President Reagan on the recommendation of White House National Security Adviser Robert C. McFarlane. The actual mines were constructed in the United States by the CIA and the United States Navy, and assembled in Honduras by CIA weapons specialists. From a "mother ship" positioned off the coast of Nicaragua, United States military and intelligence personnel, including Latin American commandos from third countries hired and trained by the CIA, deployed the mines in Nicaragua's harbors. As Senator Barry Goldwater wrote in a letter to CIA Director William J. Casey dated 9 April 1984, "the CIA had, with the written approval of the President", engaged in mining the harbors in Nicaragua. Senator Goldwater concluded: "This is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it." (See Statement of Facts, paras. 96-98.)
>
> A similar pattern of direct involvement of United States personnel marked a series of raids on Corinto and other Nicaraguan ports in the early months of 1984. Indeed, these attacks were staged from the same "mother ship" used in the mining operations. During this period, United States military personnel operated helicopters in combat against Nicaraguan positions, while supplying air cover for commando raids against Nicaraguan ports, harbors, and oil storage facilities. (See Statement of Facts, paras. 99-100.)
>
> United States aircraft have also systematically violated Nicaraguan airspace to conduct surveillance and to carry supplies to mercenary forces. United Nations Ambassador Jeanne Kirkpatrick acknowledged in a Security Council debate that as early as the beginning of 1983, the United States was conducting regular reconnaissance flights over Nicaraguan territory. (See 37 UN *SCOR* (2335th mtg.), p. 48, UN doc. S/PV. 2335/corr.1 (1982).) Such flights were conducted by UH-1H helicopters, RC 135, U2, C-47, C-130 planes, and AC-37 planes, as well as by low-flying United States SR-71 Blackbirds which have deliberately been used to cause sonic booms to intimidate the population. (See Statement of Facts, paras. 57, 120; Carrión Affidavit, Ann. A, Exhibit A, p. 159, *infra*.)

225. There is thus abundant evidence of pervasive direct participation by United States forces and employees in attacks on Nicaragua, most of it publicly admitted by responsible officials of the United States Government. It follows that the rule holding a State legally accountable for the use of force by its organs or agents is squarely applicable on the facts of this case. The record before the

Court therefore demonstrates inescapably the direct use of force by the United States against Nicaragua within the meaning of Article 2 (4).

B. The Action of the United States, in Organizing, Recruiting, Directing, Training and Supplying Armed Bands for Systematic and Continuous Incursions into Nicaragua Is a Use of Force in Violation of Article 2 (4) of the Charter

226. The evidence before the Court overwhelmingly establishes a pattern, extending at least from November 1981 to the present, of massive support by the United States for "armed bands" operating continuously during that period against the territory of Nicaragua. The aggregate amount of United States assistance to the mercenary forces during this period, as admitted by official United States sources, is not less than $70 million. As shown in Chapter I, this assistance began with the recruitment of the mercenaries and extends to the overall direction and control of their military and political strategy, the selection of military and political leaders, training including instruction in terrorist tactics against Nicaraguan civilians, construction and maintenance of bases, logistical and intelligence support of operations inside Nicaragua and planning of particular operations. Moreover, the activities of the mercenary forces have been openly adopted and ratified by President Reagan and other high United States officials.

227. The writings of jurists, the actions of the United Nations and the positions taken by the United States itself are in agreement that such use by a State of armed groups of mercenaries or irregulars to carry out acts of armed violence against another State violates the prohibition on the use of force contained in Article 2 (4). The position finds support, as well, in the pronouncements of the Court.

1. The writings of publicists

228. That the direction and control of armed bands by a State is attached to that State for purposes of determining liability, is an elementary principle of international law. Among the many authorities that could be cited for the proposition, only a few of the most prominent are mentioned here. The principle has been codified in draft form by the International Law Commission. Article 8 of the draft articles on State Responsibility reads:

> "The Conduct of a person or group of persons shall also be considered as an act of the State under international law if (*a*) it is established that such person or group of persons was in fact acting on behalf of that State; . . ." (*Yearbook of the International Law Commission*, 1974, Vol. I, p. 152.)

Commenting on this provision in the Third Report on State Responsibility to the International Law Commission, former Special Rapporteur, Judge Roberto Ago, writes:

> "The attribution to the State, as a subject of international law, of the conduct of persons who are in fact operating on its behalf or at its instigation (though without having acquired the status of organs, either of the State itself or of a separate official institution providing a public service or performing a public function) is unanimously upheld by the writers on international law who have dealt with this question." (*Ibid.*, 1971, Vol. II, Part I, p. 266.)

Judge Ago continues:

> ". . . private persons may be secretly appointed to carry out particular missions or tasks to which the organs of the State prefer not to assign

> regular State officials; people may be sent as so-called 'volunteers' to help an insurrectional movement in a neighbouring country — and many more examples could be given". (*Ibid.*, p. 263.)

229. Brownlie supports this view. In *International Law and the Use of Force by States*, he notes that although "the terms 'use of force' and 'resort to force' are frequently employed by writers these terms have not been the subject of detailed consideration". His own analysis, based on a survey of the literature, follows:

> "There can be little doubt that 'use of force' is commonly understood to imply a military attack, an 'armed attack', by the organized military, naval, or air forces of a state; but the concept in practice and principle has a wider significance. The agency concerned cannot be confined to the military and other forces under the control of a ministry of defence or war, since the responsibility will be the same if a government acts through 'militia', 'security forces', or 'police forces' which may be quite heavily armed and may employ armoured vehicles. Moreover, governments may act by means of completely 'unofficial' agents, including armed bands, and 'volunteers', or may give aid to groups of insurgents on the territory of another State." (*International Law and the Use of Force by States*, 1963, p. 361.)

Brownlie notes that although sporadic operations by armed groups might not amount to armed attack

> "it is conceivable that a co-ordinated and general campaign by powerful bands or irregulars, with obvious or easily proven complicity of a government of a state from which they operate would constitute an 'armed attack'". (*Ibid.*, pp. 278-279.)

230. Hans Wehberg reached the same conclusion in 1951. The application of "physical" force, he maintained, is necessary for a violation of Article 2 (4), but physical force must be defined to include certain forms of indirect aggression:

> "la force armée peut être utilisée non seulement directement, mais aussi indirectement, par un 'appui fourni aux bandes armées formées sur le territoire d'un Etat et pénétrant dans le territoire d'un autre Etat'" ("L'interdiction du recours à la force. Le principe et les problèmes qui se posent", 78 Hague *Recueil* (1951-I), pp. 68-69.)

231. Rosalyn Higgins also takes the position that use of irregulars to carry out armed attacks against another State is, "from a functional point of view", a use of force. (Higgins, "The Legal Limits to the Use of Force by Sovereign States, United Nations Practice", 37 *British Year Book of International Law* 269 (1961), p. 278.) She develops the historical background for the growing emphasis on indirect uses of force in United Nations practice. At San Francisco, she points out, the focus was on conventional methods of armed attack, but "the unhappy events of the last fifteen years" necessitated a substantial reevaluation of the concept of the use of force. (*Ibid.*, pp. 288-289.) Thus, the "law-making activities" of the General Assembly and the International Law Commission defining and outlawing indirect aggression did not take place "*in vacuo*", but arose from a combination of the continuing efforts to define aggression, the Nuremburg principles, and the stream of incidents confronting the Security Council and the General Assembly. (*Ibid.*, p. 290.)

232. Rifaat also describes this evolving recognition of the dangers of indirect uses of force. Since 1945, he writes, States have with growing frequency used

armed bands and other covert uses of force in an attempt to circumvent the prohibitions of Article 2 (4).

> "States, while overtly accepting the obligation not to use force in their mutual relations, began to seek other methods of covert pressure in order to pursue their national policies without direct armed confrontation.
>
> The incompatibility of the classical external armed aggression with the present rules regulating international relations, led to the development of other methods of covert or indirect aggression." (*International Aggression*, 1979, p. 217.)

These other methods include "subversion, fomenting of civil strife, aiding armed bands or the sending of irregulars to assist rebel groups in the target state" (*Ibid.*) (See also the Third Resolution of the Institut de droit international, Session of Wiesbaden, 56 *Annuaire de l'Institut de droit international* 1975, p. 544; Novogrod, "Indirect Aggression", in Bassiouni and Nanda, *A Treatise on International Criminal Law*, 1973, Vol. I, pp. 199-200; Aroneanu, *La définition de l'agression*, 1958, pp. 89-91; Piotrowski, "Où en sommes-nous sur le problème de l'agression", 35 *Revue de droit international* (Sottile) (1957), p. 415.)

233. Thus, there is now a substantially unanimous modern view concerning indirect use of force through armed groups of mercenaries or irregulars. Whatever legal doubts may have existed prior to the Second World War were dispelled by the events of the postwar period. If the prohibition on the use of force in Article 2 (4) was to have any meaning, it would have to cover this new and dangerous mode of military activity by armed mercenaries and irregulars. As Novogrod writes, "to argue that direct and indirect aggression could not equally be violations of Article 2 (4) of the Charter would be to make a fetish of literalism" (*Indirect Aggression*, p. 227.)

2. *The position of the United States*

234. The United States has consistently been among the most forceful advocates of this view that the use of armed groups by a State to carry out military activities against another State amounts to a use of force. Again, it is sufficient to select only a few of the most salient among a multitude of authorities.

235. As early as 1947, United States Representative Austin, in a statement to the Security Council, condemned the support provided to guerrillas in Greece:

> "I do not think that we should interpret narrowly the 'Great Charter' of the United Nations. In modern times, there are many ways in which force can be used by one State against the territorial integrity of another. Invasion by organized armies is not the only means for delivering an attack against a country's independence. Force is effectively used today through devious methods of infiltration, intimidation and subterfuge.
>
> But this does not deceive anyone. No intelligent person in possession of the facts can fail to recognize here the use of force, however devious the subterfuge may be. We must recognize what intelligent and informed citizens already know. Yugoslavia, Bulgaria and Albania, in supporting guerrillas in northern Greece, have been using force against the territorial integrity and political independence of Greece. They have in fact been committing acts of the very kind which the United Nations was designed to prevent, and have violated the most important of the basic principles upon which our Organization was founded." (2 UN *SCOR* (147th and 148th mtg.), pp. 1120-1121 (1947).)

236. In a study prepared for the Legal Adviser's Office of the United States State Department in 1965, Richard Baxter concluded:

> "Although the sending of volunteers might be regarded as a form of 'indirect aggression', the conduct of the responsible State may be so blatant that 'indirect aggression' would be a misnomer. There is a spectrum of conduct from the departure of individual volunteers from the territory of a neutral State, which is not a violation of the State's duty of neutrality, to outright State participation under the fiction of volunteers. A definition of 'use of force' would have to specify when State responsibility is engaged." (*Study of the Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations*, 1965, pp. 1-12.)

237. Again in 1969, the same view was expressed by John Lawrence Hargrove, United States Representative to the Special Committee on the Question of Defining Aggression:

> "The Charter speaks in Article 2, paragraph 4, of 'the use of force' in international relations; it does not differentiate among the various kinds of illegal force, ascribing degrees of illegality according to the nature of the techniques of force employed. Articles 1 and 39 of the Charter speak of 'aggression'; similarly, they altogether fail to differentiate among kinds of aggressions on the basis of the methods of violence which a particular aggressor may favor. There is simply no provision in the Charter, from start to finish, which suggests that a State can in any way escape or ameliorate the Charter's condemnation of illegal acts of force against another State by a judicious selection of means to its illegal ends." (Statement by John Lawrence Hargrove, United States Representative to the Special Committee on the Question of Defining Aggression, 25 March 1969, Press Release USUN-32 (69), p. 5.)

238. The same view was espoused in 1973 by Judge Schwebel, who was the United States Representative to the Special Committee on the Question of Defining Aggression. Writing a year before the Definition was adopted, he argued "that the Charter of the United Nations makes no distinction between direct and indirect uses of force" and that the "most pervasive forms of modern aggression tend to be indirect ones". ("Aggression, Intervention and Self-Defence in Modern International Law", 136 Hague *Recueil* (1972-II), p. 458.)

> "The characteristic of indirect aggression appears to be that the aggressor State, without itself committing hostile acts as a State, operates through third parties who are either foreigners or nationals seemingly acting on their own initiative." (*Ibid.*, p. 455.)

Judge Schwebel confines the label of indirect aggression to actions involving the use of force. It does not cover such matters as economic and ideological coercion.

3. United Nations practice

239. The consistent practice of the United Nations confirms the proposition that substantial involvement in the activities of armed insurgent groups is a violation of the prohibition on the use of force in Article 2 (4). As Novogrod, a United States military officer assigned to the International Law Division of the Office of the Judge Advocate General, writes:

> "An examination of the practice under the Charter, it is submitted, reveals that the proscriptions of Article 2 (4) have been interpreted, for various

purposes and in varying contexts, to include indirect aggression." ("Indirect Aggression", in Bassiouni and Nanda, *A Treatise on International Criminal Law*, 1973, Vol. I, p. 220.)

240. The United Nations concerned itself almost from the beginning with the definition and elaboration of the concept of "the use of force" contained in the Charter. A series of resolutions and other actions defining or condemning the use of force and aggression show a gradual evolution from the general characterization of support for insurgent groups as unlawful to specific condemnations invoking Article 2 (4). The Draft Declaration on Rights and Duties of States, adopted by the International Law Commission in 1949, imposed a duty:

> "to refrain from fomenting civil strife in the territory of another State, and to prevent the organization within its territory of activities calculated to foment such civil strife". (Article 4, Report of the International Law Commission, 4 UN *GAOR*, Supp. (No. 10), p. 8, UN doc. A/925 (1949).)

Similarly, the Commission's Draft Code of Offences against the Peace and Security of Mankind included among the enumerated offences:

> "(4) The incursion into the territory of a State from the territory of another State by armed bands acting for a political purpose.
>
> (5) The undertaking or encouragement by the authorities of a State of activities calculated to foment civil strife in another State, or the toleration by the authorities of a State of organized activities calculated to foment civil strife in another State." (Report of the International Law Commission, 9 UN *GAOR*, Supp. (No. 9), p. 11, UN doc. A/2693 (1954).)

241. The General Assembly, too, has repeatedly condemned the use of force by acting through insurgent groups. In its 1950 Peace Through Deeds Resolution, the Assembly denounced "the intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by a threat or use of force" (GA res. 380 (V).)

> "Whatever the weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world."

(See also Essentials of Peace Resolution, GA res. 290 (IV); 1965 Declaration on the Inadmissibility of Intervention of the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, GA res. 2131 (XX).)

242. The Assembly's position on the use of armed insurgent groups is further refined in the 1970 Declaration on Friendly Relations and Co-operation between States (GA res. 2625 (XXV)), adopted without vote on 24 October 1970. Sohn places this act of the Assembly in the category of United Nations resolutions that "constitute binding interpretations of the Charter". ("The Development of the Charter of the United Nations: the Present State", in Maarten Bos (ed.), *The Present State of International Law and Other Essays*, 1973, p. 50.)

243. The first principle enunciated in the Declaration is the prohibition against the use of force, cast in the language of Article 2 (4). Subsumed under this principle are the very forms of involvement with the activities of armed bands that appear in this case:

> "Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.
>
> Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the

> commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force."

244. According to Judge Lachs, "indirect means of attacking States were barred" by this Declaration. ("The Development and General Trends of International Law in Our Time", 169 Hague *Recueil* (1980-IV), p. 166.) Similarly, former President Jiménez de Aréchaga asserts that the 1970 Declaration constitutes an "important interstitial development of some of the implications of Article 2 (4)". He finds the origins of the 1970 Declaration in the increasing use of methods of indirect aggression since 1945, in the sense of "the sending of irregular forces or armed bands or the support or encouragement given by a government to acts of civil strife in another State". Recognizing that "these acts may involve the use of force", he argues that the purpose of the Declaration was simply to prevent States from doing "indirectly what they are precluded by the Charter from doing directly". (159 Hague *Recueil* (1978-I), p. 93.)

245. The United Nations development culminated with the adoption in 1974 of Resolution 3314 (XXIX), a Definition of Aggression endorsed by the Sixth (Legal) Committee, and adopted by the General Assembly by consensus on 14 December 1974.

246. Article 1 of the Definition defines aggression as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State". Thus the Definition of Aggression is again directly and explicitly related to the use of force prohibited by Article 2 (4) of the Charter. Article 3 specifies certain acts that shall "qualify as . . . aggression", i.e., that constitute the use of force in violation of Article 2 (4). Among these, and of specific application in the present context, Article 3 (*g*) includes:

> "The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein."

247. The Soviet Union proposed including subparagraph 3 (*g*) under the separate label of "indirect aggression". (Draft proposal submitted by the USSR, United Nations General Assembly Special Committee on Question of Defining Aggression, UN doc. A/Ac.134/L.12.) In the final Definition, however, subparagraph 3 (*g*) was included without differentiating it from other, more overt forms of aggression. The Special Committee accepted the proposition that the United Nations Charter provides no basis for distinguishing between a State using force by acting on its own and a State using force by acting through armed insurgent groups. (See Report of the Sixth Committee, UN doc. A/8929, p. 5 (1974); see also Stone, *Conflict through Consensus*, 1977, p. 89.) The Definition condemns the sending of armed bands as a use of force on the same plane as direct invasion, bombardment, blockade and other traditional notions of armed aggression. (See *ibid.*, p. 75; see also Ferencz, "A Proposed Definition of Aggression", 22 *International and Comparative Law Quarterly* (1973), at 421; 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, UN doc. A/Res/36/103 (1981), p. 78.)

4. *The criteria for State liability*

248. Subparagraph 3 (*g*) of the United Nations Definition of Aggression specifically covers both the sending of armed bands "by or on behalf" of a State and "substantial involvement" in the acts of armed groups. This outcome was a compromise between the position of the western States, led by the United States,

and the position of several Third World countries. The United States insisted that the prohibition only on "sending" armed groups was too narrow. (See Ferencz, *Defining International Aggression*, 1975, Vol. 2, p. 39.) An earlier western draft would have condemned "organizing, supporting or directing armed bands or irregular or volunteer forces that make incursions or infiltrate into another state". (Report of Special Committee, UN doc. A 8019 (1970), p. 60.) Similarly, in 1972 the United States proposed adding the following to the list of examples of the use of armed force:

> "The organization by a State, or encouragement of the organization of, or assistance to, irregular forces or armed bands or other groups, volunteers, or mercenaries, which participate in incursions into another State's territory or in the carrying out of acts involving the use of force in or against another State, or knowing acquiescence in organized activities within its own territory directed toward and resulting in the commission of such acts." (28 UN *GAOR* Supp. (No. 19), pp. 22-23, UN doc. A 9019 (1973).)

249. Many nations of the third world, in contrast, objected to such an expansive prohibition on aid to armed bands; they sought to include in 3 *(g)* only the actual sending of armed groups against another State. (Report of the Sixth Committee, UN doc. A 9411, p. 11 (1973); Ferencz, *Defining International Aggression*, 1975, Vol. II, p. 39.) If 3 *(g)* was read too broadly, these nations feared, it might condemn assistance to indigenous groups engaged in struggles for self-determination against colonial powers. (See Stone, *Conflict through Consensus*, 1977, pp. 74-75, 80-83.)

250. The final language of 3 *(g)* emerged as a compromise between these two positions. (Stone, *Conflict through Consensus*, 1977, p. 75; Ferencz, *Defining International Aggression*, 1975, Vol. II, p. 40.) The definition starts by condemning the "sending" of armed groups. The United States language condemning "organizing, supporting or directing" armed groups was dropped. Instead, the prohibition was extended to "substantial involvement" in the activities of the armed groups.

251. As is to be expected, both elements of the United Nations Definition are broadly supported by the writings of publicists. In addition, the Court has also made it clear that the adoption or ratification of the acts of non-governmental actors in itself makes those actions the act of the State.

(a) *Direction and control*

252. It is only common sense that the actual direction and control of irregular armed bands by a State gives rise to liability of that State for their actions. The proposition is fully supported by international law authorities. (See, e.g., Ago, Third Report to the International Law Commission, *Yearbook of the International Law Commission*, 1971, Vol. II, Part I, pp. 263-266.)

253. In discussing the activities of rebels in a civil war Brownlie writes, "If rebels are effectively supported *and controlled* by another state that state is responsible for a 'use of force' as a consequence of the agency." (*International Law and the Use of Force by States*, 1963, p. 370 (emphasis in text).)

> "The use of volunteers under governmental control for launching a military campaign or supporting active rebel groups will undoubtedly constitute a 'use of force'. It is the question of government control and not the label 'volunteer' or otherwise which is important." (*Ibid.*, pp. 371-372.)

This emphasis on direction or control is shared by other publicists. As Piotrowski writes,

> "l'emploi de la force par voie d'une action organisée à l'intérieur du pays à l'aide de l'Etat étranger, au moyen de saboteurs, instructeurs, meneurs et techniciens de provenance étrangère ou instruits à l'étranger, constitue bien un casus d'agression indirecte." ("Où en sommes-nous sur le problème de l'agression", 35 *Revue de droit international* (Sottile) 1957, p. 415. See also Aroneanu, *La définition de l'agression* 1958, pp. 91-92.)

254. Whether a State controls and directs the activities of the armed groups depends on the facts of the particular situation. For Brownlie, proof of control is essentially proof of agency. In discussing the factors that determine whether a State has control over a group of alleged volunteers, Brownlie cites:

> "numbers, central direction, size of offensive launched, . . . identification of formations and divisions . . . source of equipment, the origin of the command under which the forces operate, and an absence of disavowal by the government of the State of origin". ("Volunteers and the Law of War and Neutrality", 5 *International and Comparative Law Quarterly* (1956), p. 574.)

255. Under this analysis, the United States has exercised and is exercising control over the activities of the mercenary forces, and is thus using force against Nicaragua. Each of the factors Brownlie cites is satisfied in the present case. Although the mercenaries represent a large, well-organized force of 16,000 men (*LAT* 3/5/85), and their offensives often involve several hundred soldiers (see, e.g., Brody Report, Ann. I, Attachment 2, pp. 5, 23), the central direction of the mercenary forces has come from Washington. (*WSJ* 3/5/85.) Their equipment comes primarily from the United States, either directly or funneled through a network of third parties. (*LAT* 3/4/85; *WSJ* 3/5/85; *WP* 7/11/84; *WP* 7/19/84; *NYT* 1/13/85.) Indeed, the United States exercises direction and control at every level of the mercenary army's activities, from the most minute details of the behavior and performance of individual mercenaries, to the broadest issues of deciding what goals to achieve and how to achieve them.

256. At the command level, the United States determines the mercenary army leadership. In 1982 the United States decided that the mercenary forces needed new leaders to improve their political "image". Accordingly, it interviewed candidates, selected the new leaders, and unveiled them in a press conference in Miami in December 1982. (*LAT* 3/4/85; *WSJ* 3/5/85.) The United States told the mercenary leaders what they should say in public in order to make a favorable impression on Congress and the United States public. (*NYT* 11/1/84; *LAT* 3/3/85.) The evidence contains a telegram from the mercenary forces' leadership to the United States Ambassador in Tegucigalpa requesting the inclusion of one person in the leadership and thanking him for his help in solving other leadership problems. (See Carrión Affidavit, Ann. A, Exhibit B.) The United States paid the mercenary leaders and housed many of them in Miami. (*NYT* 11/1/84.) For those mercenary leaders based in Central America, the CIA devised plans to resettle them in the United States should that become necessary. (*NYT* 6/27/84.) Leaders who displeased the United States were dismissed. (*WP* 11/27/84.)

257. At the organizational level, the United States recruited mercenaries and set the pay scale of leaders and foot soldiers alike. (*WSJ* 3/5/85.) Moreover, the United States has regulated the size of the mercenary forces, establishing both the amount and the pace of growth. (*LAT* 3/5/85; *WSJ* 3/5/85.) Every major increase in the size of the mercenary forces has reflected a policy decision

made in Washington. The Reagan administration's initial request for Congressional funding in late 1981 called for a force of 500 mercenaries. (*LAT* 3/3/85.) In the fall of 1982, the CIA recommended a substantial increase in mercenary force levels. (*WP* 5/8/83; *WP* 5/5/83.) By December 1982 the mercenary army had been expanded to 4,000 men, by February 1983 to 5,500, by July 1983 to 8,000-10,000. (*WP* 5/8/83; *WP* 7/14/83; *WSJ* 9/21/83.) Then during the summer of 1983, the Administration decided to expand the size of the mercenary army to 15,000 men. (*NYT* 7/25/83; *WP* 11/23/83.) By the end of 1984 the CIA had achieved this goal. (*LAT* 3/5/85.) The CIA has also worked to ensure that the mercenary army does not grow faster than the predetermined rate. (*LAT* 3/5/85.)

258. At the operational level, the United States directs the training of the mercenary forces by CIA personnel. (*WP* 4/7/84; *WSJ* 3/6/85.) The United States advisers instruct the mercenaries generally on the principles of guerrilla warfare and specifically on what weapons to use, how to make them and how to use them. (See *Psychological Operations in Guerrilla Warfare*, Ann. G; see also *LAT* 3/3/85; *NYT* 12/3/84.) Through the psychological warfare manual and the CIA sabotage booklet, Annex H, the United States even sought to advise the mercenaries on how they should behave. United States advisers help the mercenaries plan their missions and often accompany them to supervise the missions. (*NYT* 10/16/83; *WSJ* 3/6/85.) Finally, the United States never let the mercenaries control their own weapons or logistics. (*WSJ* 3/5/85.)

259. At the tactical level, the United States has told the mercenaries what tactics to employ. The CIA originally urged the mercenaries to launch conventional attacks in an attempt to seize and hold Nicaraguan territory. (*NYT* 4/3/83.) Later, the United States decided that guerrilla tactics would be more effective against Nicaragua and told the mercenaries to change their tactics accordingly. (*LAT* 3/4/85; *WP* 4/7/84.) In addition, the CIA has selected targets for the mercenary raids and directed air strikes against the targets. (*NYT* 5/3/84; *WSJ* 3/6/85.) It has also chosen which methods of violence the mercenaries should employ. (See *Psychological Operations in Guerrilla Warfare*, Ann. G.) In sum, the day-to-day conduct of the war was directed by CIA personnel under the overall supervision of CIA Director Casey. (*WP* 12/16/84.) Indeed, one administration official remarked, "It's really Casey's war." (*Ibid.*)

260. At the level of military strategy, the United States has dictated a program of sabotage and decided upon the class of targets it wishes the mercenaries to attack. It has chosen when and where the mercenaries should launch invasions into Nicaragua.

261. At the level of political and organizational strategy, the United States has worked to unite the opposing factions of mercenaries and to improve their political image. It has formulated a plan to cripple the Nicaraguan economy. It made the decision to embark the mercenaries on a program of psychological warfare.

262. Close control over the activities of the mercenaries has been a consistent goal of United States policy. Administration officials have repeatedly assured Congress that the United States was in control. In December 1982, for example, one of CIA Director Casey's aides testified that the CIA had "firm control" over the mercenary operation. (*WP* 5/8/83; see also *LAT* 3/5/85.) The United States has taken decisive steps to maintain this control. After Argentina pulled its advisers out of the mercenary operation, the United States decided to manage the program directly and sent its own advisers. (*WSJ* 3/5/85.) From that time on, the United States has steadily increased the number of these advisers. (*NYT* 11/19/84; see also *LAT* 3/3/85.) On occasions an American helicopter, flown by United States personnel, has been used to obtain better command and control at the operational level. (*WSJ* 3/5/85.) Again there are many instances of the

CIA threatening to withhold supplies and training unless the mercenaries accepted its advice. (*NYT* 4/18/84.)

(b) *Substantial involvement*

263. The second branch of the concept of aggression embodied in paragraph 3 (*g*) of the Assembly's definition finds equally broad support. The principle goes at least as far back as the historic Alabama Claims Arbitration decided in 1872. (Moore, *History and Digest of the International Arbitrations to Which the United States Has Been a Party*, Vol. I, p. 658.) There, the tribunal awarded "a sum of $15,500,000 in gold, as the indemnity to be paid by Great Britain to the United States". The basis of the claim was that, during the American Civil War, Great Britain had fitted out, armed, equipped, and supplied Confederate cruisers that preyed on Union shipping.

264. The position is confirmed in the writings of modern publicists. Former President Jiménez de Aréchaga, writes, "to violate the prohibition on the use of force it is required to organize, instigate, assist or participate 'in acts of civil strife'". (159 Hague *Recueil* (1978-I), p. 115. See also Schachter, "The Right of States to Use Armed Force", 82 *Michigan Law Review* (1984), p. 1641.)

265. The evidence that conclusively demonstrates United States direction and control of the mercenaries' paramilitary activities against Nicaragua shows, *a fortiori*, that the United States has been "substantially involved" at every level of these operations. The United States intimate involvement with the mercenary forces is also demonstrated by the United States role in furnishing the men, money, material and support facilities essential to the mercenaries' operations.

266. The United States has provided men for the mercenary movement by recruiting in Honduras and the United States, and training the soldiers once they join up. (*WSJ* 3/5/85; *WP* 4/7/84.) The United States role has been even more crucial in financing the mercenary program; the United States has allocated more than $70 million to it from 1981 to the spring of 1984. Moreover, the United States has supervised the expenditure of these funds to ensure that they are not used improperly by the mercenary officers. (*LAT* 3/4/85; *WSJ* 3/5/85.) Each new Congressional authorization of funds for the program has resulted in a surge in mercenary activities (*NYT* 1/16/84.) Conversely, Congressional refusals to continue funding have been followed by dire assertions that the mercenary movement cannot survive without United States support. (See, e.g., Official Transcript of News Conference by President Reagan (22 May 1984), pp. 172-173, *infra*, Ann. C, Attachment I-5; *WP* 2/18/85; *NYT* 1/16/84.)

267. The matériel furnished by the United States ranges from helicopters and combat planes to small arms to uniforms and boots. (See, e.g., *WP* 9/15/84; *WP* 9/18/84; *NYT* 9/19/84, 1/13/85 and 3/1/85.) Military hardware that was originally the property of the United States Air Force was transferred to the mercenaries through the CIA. (*Ibid.*; see also *NYT* 7/25/83.) Further, the United States has encouraged and assisted private groups in funneling war supplies to the mercenaries. (*WP* 9/18/84; *NYT* 9/11/84.) To move the equipment to the mercenaries — both that provided by the CIA itself and that furnished by private United States groups — the United States has conducted a large lift operation involving United States Navy ships, Air Force planes, and at least one private cargo airline. (*NYT* 7/15/84; *WP* 7/19/84.)

268. In addition, the United States has furnished the mercenaries with support facilities. In Honduras, there has been a massive effort to improve military installations such as army bases and airfields, many of which have been used by the mercenaries. (*WP* 10/26/84; *WP* 1/31/85; *NYT* 1/13/85.) Moreover, the

United States has put sophisticated intelligence facilities at their disposal to conduct surveillance of the Nicaraguan forces. (*Time* 4/23/84; see also *WP* 10/26/84.)

269. Finally, subparagraph 3 *(g)* of the Assembly's Definition of Aggression says that the acts carried out by the armed groups must be "of such gravity as to amount to" invasion or attack, military occupation, bombardment, blockade of the ports or coast of a State and the like. Thus minor incidents are not considered a use of force under the rubric of subparagraph 3 *(g)*. (Rifaat, *International Aggression* (1979), p. 274.) There can be no doubt that the mercenaries' activities are of sufficient gravity as to fall within the prohibition of subparagraph 3 *(g)*. To recite only gross figures, in all, the military attacks of the mercenaries have resulted in over 2,600 Nicaraguans killed; over 5,500 maimed, wounded, raped or kidnapped; and more than $378,200,000 in property damage. Thus, the standard of substantial United States involvement in the activities of the mercenaries has been fully satisfied.

(c) *Adoption and ratification*

270. Finally, the United States, on the highest authority, has repeatedly adopted, ratified and approved the acts of the mercenary forces in and against Nicaragua. One of the most recent and extreme examples is President Reagan's affirmation in a radio address on 16 February 1985, that "They are our brothers . . . [T]heir fight is our fight." (Official Transcript, Ann. C, Attachment I-13.)

271. Under the jurisprudence of the Court, such adoption and ratification constitutes still another basis for attributing the actions of the mercenaries to the United States for the purpose of determining its legal liability. In the case concerning *United States Diplomatic and Consular Staff in Tehran*, the Court said:

> "the policy thus announced by the Ayatollah Khomeini, of maintaining the occupation of the Embassy and the detention of its inmates as hostages for the purpose of exerting pressure on the United States Government was complied with by other Iranian authorities and endorsed by them repeatedly in statements made in various contexts. The result of that policy was fundamentally to transform the legal nature of the situation created by the occupation of the Embassy and the detention of its diplomatic and consular staff as hostages. The approval given to these facts by the Ayatollah Khomeini and other organs of the Iranian State, and the decision to perpetuate them, translated continuing occupation of the Embassy and detention of the hostages into acts of that State." (*I.C.J. Reports 1980*, p. 3, at pp. 34-36.)

272. The President's statement of 16 February 1985 is only the most striking of the many statements by senior administration officials adopting, approving and ratifying the activities of the mercenaries against Nicaragua. President Reagan himself repeatedly refers to these mercenaries as "freedom fighters" and tells the American people that it has a duty to support them. (Official Transcript, Ann. C, Attachment I-13.)

273. Indeed, these ratifications go beyond the actions of the mercenaries themselves. In recent months, after the Congress had terminated further official assistance to the mercenary forces the Administration encouraged and facilitated the activities of private parties in supplying men, money and matériel to mercenary forces in the field. Two American citizens (one a member of the Alabama Air National Guard) who had joined the mercenaries by this route were killed in a helicopter attack on Nicaraguan territory. When challenged on

these matters in Congress and the press. United States officials defended and embraced these private actions.

274. In this manner, the United States, by adopting, approving and ratifying the acts of the mercenary forces and private efforts to support and assist them, has "translated" their acts and conduct "into the acts of that State". (*I.C.J. Reports 1980*, p. 36.)

C. The United States Use of Force, as Shown by the Evidence, Is "Against the Territorial Integrity and Political Independence" of Nicaragua

275. The phrase "against the territorial integrity or the political independence of any State" was inserted in the text of Article 2 (4) precisely to ensure that the illegality of the use of force against either of these sovereign attributes would be indisputable. It was intended to safeguard the continued sovereign existence of Member States.

276. The Dumbarton Oaks draft of the Charter contained no specific reference to political independence and territorial integrity as essential attributes of national sovereignty. The omission did not go unnoticed. In comments submitted prior to the San Francisco Conference, many of the medium and small States, including virtually all of the Latin American States, proposed amendments designed to ensure the explicit protection of these attributes in the Charter.

277. The amendment finally adopted was proposed by Australia. (6 UNCIO doc. 382, 17 May 1945, p. 303.) The Deputy Prime Minister, Mr. Francis M. Forde, after reviewing the substance of the proposed amendment, stated the rationale for it as follows:

> "The application of this principle should insure that no question relating to a change of frontiers or an abrogation of a state's independence could be decided other than by peaceful negotiation." (1 UNCIO doc. 20, 28 April 1945, p. 174.)

This rationale was echoed precisely by Dr. Herbert Evatt, Minister for External Affairs and head of the Australian Delegation, in his subsequent book *The United Nations*. (*The United Nations*, 1948, p. 19.)

278. There can be no question that the use of force by the United States appearing on the record before the Court is against both "the territorial integrity" and "the political independence" of Nicaragua. The evidence shows repeated armed incursions across the frontiers, hundreds of deliberate violations of Nicaraguan airspace — many of them by high performance aircraft for the purpose of producing sonic booms to intimidate the population — and admitted intrusions by armed vessels into Nicaraguan territorial waters. (Carrión Affidavit, Ann. A, Exhibit A.) It is self-evident that these actions are, as a matter of law, obvious and flagrant assaults on Nicaragua's territorial integrity.

279. Similarly, the United States actions in supporting the mercenaries are openly and unequivocally directed against the "political independence" of Nicaragua. As defined by McDougal:

> "Impairment of 'political independence' . . . involves substantial curtailment of the freedom of decision-making [of the target state] through the effective and drastic reduction of the number of alternative policies open at tolerable cost to the officials of that state. It may further consist of an attempt to reconstruct the process of decision in the target state, to modify the composition or membership of the ruling elite group, and, perhaps, to dislodge that group completely and to substitute another more acceptable

to the attacking state." (McDougal and Feliciano, "Legal Regulation of Resort to International Coercion: Aggression and Self-Defense in Policy Perspective", 68 *Yale Law Journal* (1959), 1057, 1101 (1959). See also Jiménez de Aréchaga, "International Law in the Past Third of a Century", 159 Hague *Recueil* (1978-I), p. 113.)

280. The foregoing quotation is a strikingly accurate description of the admitted objectives of United States policy in Nicaragua. The United States has frankly stated that its objective in supporting the mercenaries is the overthrow of the Nicaraguan Government. The recent statements of the President, as elaborated by many Administration spokesmen, in the campaign to renew financing leave no doubt that the purpose of United States policy is to overthrow the Government of Nicaragua. (See Statement of Facts, paras. 130-145.) These statements are but the culmination of a steadily escalating policy of actions explicitly directed against the political independence of Nicaragua. Thus, two years ago, United States Ambassador to Nicaragua, Anthony C. Quainton, stated that the object of United States policy "is to try and modify the behavior [of the Nicaraguan Government] in some substantial ways which are consistent with our interests and our vital security concerns throughout Central America". (*NYT* 7/25/83.)

281. This same formula — maintaining pressure to force a change in Nicaraguan policies — has been reiterated repeatedly by United States officials high and low as the objective of the elaborately orchestrated United States program of activity. It should be recalled that this program of coercion included not only the actual use of force that is the basis of Nicaragua's claim in this case. In addition it comprised almost continuous military maneuvers by thousands of United States troops near Nicaragua's borders and powerful naval flotillas off its shores. (See Statement of Facts, paras. 119-121.) These military operations were admitted to be part of a program of "perception management" designed to intimidate the Nicaraguan Government and keep it on continuous alert against a possible direct invasion by United States forces. (*WP* 11/1/84; *NYT* 3/30/85.) Military deployments were backed up by economic pressures: the termination of all economic assistance to Nicaragua, early in 1981 (*NYT* 4/2/81); the 90-per cent cut in the Nicaraguan sugar quota in 1983 — officially determined to be a violation of United States obligations under the General Agreement on Tariffs and Trade (GATT); and the veto of support from multilateral financial agencies such as the International Monetary Fund and the Inter-American Development Bank. (Ann. K, Attachment 5.)

282. In light of the above actions and the stated purposes behind these actions, there can be no clearer instance of a use of force directed against the political independence of another State.

Section II. The Use of Force by the United States against Nicaragua Cannot Be Justified as an Exercise of the Right of Self-defense

283. The United States has interposed no pleadings in this case formally seeking to justify its actions on grounds of self-defense. However, the Agent and various counsel for the United States, in speeches at the hearings on provisional measures and preliminary questions and in other public statements about the case, have made reference to the relevance of self-defense to the merits of the case. For a considerable time, the United States also publicly maintained the fiction that the purpose of its armed actions and support of the mercenaries was

to interdict traffic in arms allegedly proceeding from Nicaragua to assist rebels fighting against the Government of El Salvador. Occasional remarks by United States officials have referred to such interdiction as an exercise of the right of collective self-defense, presumably in association with El Salvador. (*NYT* 4/9/84; *WP* 4/13/84.) In light of the position Nicaragua has taken in this case on the operation of Article 53 of the Statute of the Court (see Chap. II, para. 153, *supra*), Nicaragua believes it appropriate to address the issue in this Memorial.

284. Before doing so, however, Nicaragua wishes to reaffirm, as sworn by its Foreign Minister, Miguel d'Escoto, in his affidavit in this case (Ann. B), that the allegations concerning supply and assistance by Nicaragua to the rebels in El Salvador are untrue. The United States has failed to produce any evidence, before the Court or in any other public forum, to substantiate these allegations. In view of the enormous financial and technical resources available to the United States intelligence community, the absence of any evidence is a striking confirmation of Nicaragua's position. The evidence that is available from unofficial sources not only refutes the United States charges but goes far to support Nicaragua's assertion that it has not provided military supplies and assistance to the Salvadoran rebels. (See *Christian Science Monitor* 5/2/84; *BG* 6/10/84; *NYT* 6/11/84; *LAT* 6/16/84.)

4. *The Status of the Justification of Self-defense in the Context of Current Admissions by the United States as to the Purposes and Objectives of Its Policy*

285. Developments since the Court's Judgment of 26 November 1984 have, as a matter of law, removed from this case any possibility of justification on grounds of self-defense. In this period, the United States has repeatedly, unequivocally and on the highest authority acknowledged that its purpose in supporting and directing military and paramilitary activities in and against Nicaragua is to overthrow the Government of Nicaragua or to coerce it to change its present structure. Such a purpose is wholly incompatible with any justification on grounds of self-defense.

286. On 21 February 1985, President Reagan was asked whether "a goal of your policy now is to remove the Sandinista government?" He replied: "Well, remove in the sense of its present structure." (Official Transcript of News Conference, p. 183, *infra*, Ann. C, Attachment I-14.) Again, in the same interview, when asked "aren't you advocating the overthrow of the present government?" he said: "Not if the present government would turn around and say, all right, if they'd say 'Uncle'". (*Ibid.* p. 184, *infra.*) As has been shown, "say 'Uncle'" is an American colloquialism for surrender. (See Statement of Facts, para. 14.)

287. In the light of these statements, earlier references by United States spokesmen and legal representatives to the purpose of arms interdiction or to the justification of self-defense stand revealed as cynical pretexts for a policy of naked and blatant intervention in the affairs of Nicaragua.

288. In retrospect it can be seen that the references to self-defense were manufactured solely for the purposes of this case. They begin at or about the time the Application was filed. Before that, although there was much talk of arms interdiction, it was not put in the legal category of the justification of self-defense. (See Chap. II, *supra*, paras. 202-203.) Since the United States has withdrawn from the case, the references to self-defense have all but ceased.

289. Every development since President Reagan's February press conference serves to confirm and reinforce his admission as to the objectives of United States policy. As this Memorial was being written, the United States Administration engaged in an all-out campaign to induce the Congress to vote

$14 million for funding the activities of the mercenaries during the current fiscal year. The express premise of this campaign was that without such funding and other forms of United States support and involvement, the United States will be powerless to impose its will upon Nicaragua and to force it to comply with United States demands. Statements too numerous for citation from both supporters and opponents of the additional funding reflect this basic premise of the funding campaign. (E.g., Statement of Facts, paras. 133-150.)

290. Indeed, the centerpiece of the campaign was the so-called "peace initiative" launched by President Reagan on 4 April 1985. In it, he offered a 60-day cease fire by the guerrillas "in return for an agreement by the Nicaraguan régime to begin a dialogue mediated by the Bishops Conference of the Roman Catholic Church with the goal of restoring democracy through honest elections". During that 60-day period, assistance to the mercenaries was to be restricted to non-military items. "If there is no agreement after 60 days of negotiations, I will lift these restrictions, unless both sides ask me not to." (Official Transcript of Remarks, p. 189, *infra*, Ann. C, Attachment I-19.) It is apparent that this "peace initiative" is a thinly veiled ultimatum. As President Betancur of Colombia said: "It is no longer a peace proposal, but a preparation for war." (*NYT* 4/16/85.)

291. It goes without saying that these purposes entirely negate the justification of self-defense. They are diametrically opposed to any conception of self-defense recognized by contemporary international law.

B. In Any Event, the Justification of Self-defense Cannot Be Supported in the Circumstances of This Case

Article 51 of the United Nations Charter provides:

> "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to maintain or restore international peace and security."

Self-defense within the meaning of Article 51 is the only justification for the unilateral use of force under the Charter. The use of force by the United States against Nicaragua cannot be so justified. It follows that it cannot be justified at all.

1. Legal justifications for the use of force

292. The prohibition on the use of force in Article 2 (4) of the Charter is categorical. The only exception to this prohibition, other than collective measures authorized by the Security Council, is the inherent right of individual or collective self-defense in case of armed attack, preserved under Article 51[9].

293. The standard formulation is given in Brierly's *Law of Nations*:

> "The broad effect of Article 2 (4) is, therefore, that it entirely prohibits the use or threat of armed force against another state except in self-defence

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[9] The one other exception is the provision for the use of force against ex-enemy States in Articles 107 and 53; however, these provisions may be described as a temporary exception which has now lapsed.

> or in execution of collective measures authorized by the Council or Assembly." (*The Law of Nations*, 1963, p. 415.)

This general view of the interacting relationship between Article 2 (4) and Article 51 has the overwhelming support of international law publicists around the world. We list here some of the chief sources:

Alfaro, "La question de la définition de l'agression", 29 *Revue de droit international* (Sottile) (1951), p. 374.
Baxter, "The Legal Consequences of the Unlawful Use of Force under the Charter", 62 *American Society of International Law Proceedings* (1968), p. 69.
Bentwich and Martin, *A Commentary on the Charter of the United Nations*, 1956, p. 13.
Bishop, "General Course of Public International Law", 115 Hague *Recueil* (1965-II), p. 428.
Briggs, *The Law of Nations*, 1953, at p. 964.
Brownlie, *International Law and the Use of Force by States*, 1963, p. 113.
Chaumont, "Cours général de droit international public", 129 Hague *Recueil* (1970-I), p. 403.
Falk, "The New States and International Legal Order", 118 Hague *Recueil* (1966-II), p. 47.
Henkin, *How Nations Behave*, 1979, p. 137.
Jiménez de Aréchaga, *Derecho Constitucional de las Naciones Unidas*, 1958, p. 87.
Kelsen, *Principles of International Law*, 1966, p. 54.
Lachs, "The Development and General Trends of International Law in Our Time", 169 Hague *Recueil* (1980-IV), pp. 159, 162.
E. Lauterpacht, "The Legal Irrelevance of the 'State of War'", 62 *American Society of International Law Proceedings* (1968), p. 62.
Rousseau, *Le droit des conflits armés*, 1983, pp. 535-536.
Scelle, "Quelques réflexions sur l'abolition de la compétence de guerre", 58 *RGDIP* (1954), p. 5.
Schachter, "The Right of States to Use Armed Force", 82 *Michigan Law Review* (1984), p. 1620.
Schwebel, "Aggression, Intervention and Self-Defence in Modern International Law", 136 Hague *Recueil* (1972-II), p. 449.
Wehberg, "L'interdiction du recours à la force. Le principe et les problèmes qui se posent", 78 Hague *Recueil* (1951-I), p. 70.

294. One further quotation from Sir Humphrey Waldock's authoritative treatment, "The Use of Force in International Law", is appropriate. He says:

> "Armed reprisals to obtain satisfaction for an injury or any armed intervention as an instrument of national policy otherwise than for self-defence is illegal under the Charter. . . . Thus the only question is, what is the scope of the exception of self-defence." (81 Hague *Recueil* (1952-II), p. 493.)

295. The classic case of the use of force "as an instrument of national policy" is the attempt to overthrow the government of another State that is for some reason not acceptable to the acting State, or to force it to change its policies. Whatever may be "the scope of the exception of self-defence" it cannot stretch to cover the use of force for these purposes.

296. Even the minority of publicists who contend that Article 51 does not define or limit the right of self-defense, but simply preserves the pre-existing

right, agree that the very concept of self-defense is inconsistent with the use of force against the political independence of another State. Bowett, who is perhaps the leading exponent of this non-restrictive view of Article 51, agrees that the core of the concept is the protection of "essential rights from irreparable harm in circumstances in which alternative means of protection are unavailable . . .". (*Self-Defence in International Law*, 1958, p. 11.) In no sense can the use of force by the United States against the political independence of Nicaragua over a four-year period, as shown on the record before the Court, be regarded as the only available means of protecting essential rights from irreparable harm.

297. More frequently, proponents of a non-restrictive view of Article 51 define self-defense with reference to Daniel Webster's famous formulation in the *Caroline* case: "a government alleging self-defense must show a necessity of self-defense [that is] instant, overwhelming, and leaving no choice of means, and no moment for deliberation".

Higgins, "The Legal Limits to the Use of Force by Sovereign States, United Nations Practice", 37 *British Year Book of International Law* (1961), pp. 301-302.

Schachter, "The Right of States to Use Armed Force", 82 *Michigan Law Review* (1984), pp. 1634-1635.

Schwarzenberger, "The Fundamental Principles of International Law", 87 Hague *Recueil* (1955-I), pp. 332-333.

Waldock, "The Use of Force in International Law", 81 Hague *Recueil* (1952-II), pp. 496-498.

298. Here again it is evident that there is not and never has been any threat by Nicaragua to the United States or any other country necessitating an instant, reflexive response. In the *Caroline* formula there is "no moment for deliberation". But the United States has had more than four years to deliberate about "the choice of means" for its Nicaraguan policy. After first considering the open use of military force to achieve its Central American objectives, the decision was made to organize and launch the mercenaries, then to supplement their efforts with mining of harbors and direct attacks by CIA employees and hired saboteurs against targets inside Nicaragua, ultimately to expand the guerrilla force to 15,000 men, and to engage overall in a policy of intimidation and "perception management". (See, e.g., *WSJ* 3/5/85; *NYT* 3/30/85; *NYT* 4/17/85.) Over this entire period, the United States has — in a measured, calculated and deliberate manner — steadily intensified the application of force against Nicaragua. The *Caroline* formula can find no application in this case.

2. *The factual basis for the justification of self-defense is not present in this case*

299. President Reagan's press statement of 21 February far from announcing a new policy objective, simply marked the abandonment of the pretense that the United States was recruiting, financing, training, supplying and directing the mercenaries over the past four years for the sole purpose of "interdicting" the alleged flow of arms from Nicaragua to El Salvador. But it had become apparent long before then that the oft-repeated interdiction claim was simply a sham:

> The very first National Security Council document accompanying the plan initially approved by President Reagan in November 1981 included the following statement of purpose:
>
> > "Build popular support in Central America and Nicaragua for an opposition front that would be nationalistic, anti-Cuban and anti-Somoza;

> support the opposition front through formation and training of action teams to collect intelligence and engage in paramilitary and political operations in Nicaragua and elsewhere; work primarily through non-Americans to achieve the foregoing, but in some circumstances CIA might (possibly using US personnel) take unilateral paramilitary action against special Cuban targets." (*WP* 5/8/83.)

The CIA provided military and financial support to Eden Pastora, whose forces were based in Costa Rica — to the south and far from any potential weapons routes to El Salvador — and whose stated objective was the overthrow of the Nicaraguan Government. (*LAT* 3/3/85.)

The mining of Nicaragua's harbors in February and March of 1984 had purposes other than the interdiction of weapons traffic. Senator David Durenberger, a member of the Senate Intelligence Committee and until recently a strong supporter of aid to the mercenaries, said that the decision to undertake the mining was based on the need to step up actions against Nicaragua "to some higher level with some specialized activity that would put economic pressure" on the Government. (*Newsday* 4/19/84.)

Similarly, the preparation and dissemination in 1983 of a manual giving instructions for attacking and terrorizing civilians and civilian targets was evidently unconnected with the objective of arms interdiction. The manual specifically directs the guerrillas to "kidnap . . . officials of the Sandinista government"; and to "neutralize carefully selected and planned targets" including judges, police and State Security officials. ("Psychological Operations in Guerrilla Warfare", Ann. G.)

The many attacks carried out against civilians and a wide range of economic targets, from coffee harvests to oil storage facilities, bear no relation to arms interdiction.

300. The striking discrepancy between the Administration's public words and private deeds is overwhelmingly confirmed by former mercenary leader Edgar Chamorro. The CIA officials, he said, "always told us the objective was to overthrow the government in Managua . . . . They always said the President of the United States wants you to go to Managua." (*LAT* 3/3/85.) At the same time, however, these officials warned Chamorro and his fellow leaders never to state publicly that their objective was the overthrow of the Nicaraguan Government. (*LAT* 3/3/85.)

301. The evidentiary record shows conclusively that self-defense in any guise, whether as defined under Article 51 or otherwise, was simply not a factor in the Administration's policy calculations. The support of the guerrillas was conceived from the start as a way of using force to put pressure on or overthrow the Government of Nicaragua in furtherance of United States national interests, as defined by the Administration. Moreover, from the beginning, United States policymakers were aware that use of force for such purposes could not be publicly justified even in conventional political terms, much less as an exercise of self-defense under the norms of international law — thus the use of "covert" action.

302. Even if arms interdiction had been the United States purpose, the justification of self-defense under Article 51 cannot be sustained. Article 51 provides that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence *if an armed attack occurs* . . . ." (Emphasis added.) The allegations of weapons supply by Nicaragua to Salvadoran rebels, even if true, would not amount to "an armed attack" under this provision.

303. The plain meaning of this article limits the exercise of the right of self-defense to situations in which the actor is under armed attack. Henkin confirms this analysis in the following passage:

> "Of course, in the abstract, 'an armed attack occurs', does not have to mean *only* if an armed attack occurs. But anyone reading the article, as a lawyer or as a layman, would read the article as permitting an exception only if an armed attack occurs. What draftsman or reader would say that a clause which permits self-defense if an armed attack occurs, really permits self-defense whether an armed attack occurs or not?"

304. The restrictive interpretation of Article 51 is adhered to by a majority of publicists:

G. Badr, 10 *Georgia Journal of International and Comparative Law* (1980), p. 6.
Bishop, "General Course of Public International Law", 115 Hague *Recueil* (1965-II), pp. 436-437.
Brownlie, *International Law and the Use of Force by States*, 1963, p. 278.
Henkin, *How Nations Behave*, 1979, pp. 141-142.
Jiménez de Aréchaga, *Derecho Constitucional de las Naciones Unidas*, 1958, p. 401.
Kelsen, *The Law of the United Nations*, 1950, p. 797.
Komarnicki, "La définition de l'agresseur dans le droit international moderne", 75 Hague *Recueil* (1949-II), p. 84.
Oppenheim, *International Law* (H. Lauterpacht, ed.), 1952, Vol. II, p. 154.
Skubiszewski, "The Postwar Alliances of Poland and the United Nations Charter", 53 *American Journal of International Law* (1959), pp. 167, 619-622.
Taoka, *The Right of Self-Defense in International Law*, 1978, p. 126.
Verdross, "Idées directrices de l'Organisation des Nations Unies", 83 Hague *Recueil* (1953-II), p. 83, p. 14.
Wehberg, "L'interdiction du recours à la force. Le principe et les problèmes qui se posent", 78 Hague *Recueil* (1951-I), p. 81.
Q. Wright, "The Prevention of Aggression", 50 *American Journal of International Law* (1956), p. 529.

305. In his Hague lectures, Judge Lachs affirmed both the validity and the importance of this interpretation:

> "'Armed attack' must be ascertained: it must be clear that it was launched. With the present means of verification this should present no difficulties, but there must be no shadow of doubt, for practice has demonstrated that false alerts may occur: and they may lead to disaster." (169 Hague *Recueil* (1980-IV), p. 164.)

Although Judge Lachs is referring specifically to nuclear weapons, the point is equally valid more generally. Any circumvention of the armed attack limitation endangers the peace and security of the international system, at the regional as well as the global level.

306. Perhaps the most striking exemplar of the armed attack limitation on the right of self-defense is to be found in the deliberate refusal of the United States to justify its quarantine of Cuba during the Cuban Missile Crisis in terms of self-defense. Professor Chayes, who was State Department Legal Adviser during the crisis, writes that "the self-defense argument . . . was never officially espoused in the Cuban affair. On the contrary, it was repeatedly and consciously rejected." (*The Cuban Missile Crisis*, 1974, p. 63.) He further explains that, although part of the reason for the United States position was the unwillingness to set a dangerous precedent, the larger "difficulty with the Article 51 argument was that

it seemed to trivialize the whole effort at legal justification", precisely because it would have allowed the United States to be judge in its own case. (*Ibid.* p. 65.) The ultimate result would be that:

> "Whenever a nation believed that interests, which in the heat and pressure of a crisis it is prepared to characterize as vital, were threatened, its use of force in response would become permissible." (*Ibid.*)

307. If the United States refused to regard the Soviet provision of missiles to Cuba — nuclear warheads aimed directly at its territory — as an armed attack, the actions charged against Nicaragua must fall far below the requirement of Article 51. They do not involve the use of armed forces. Nicaraguan troops or other forces under its direction and control are not alleged to be operating outside its borders. It is not even asserted that Nicaragua is "substantially involved" in the rebel operations in El Salvador. All that the United States has alleged — without producing a shred of proof — is that Nicaragua has provided some conventional arms to the insurgents.

308. Indeed, such evidence as has been made public supports the Nicaraguan position in this case. David C. MacMichael was a CIA employee who for a period of two years had overall responsibility in the Agency for assessing and analysing all evidence of arms traffic through Nicaragua. He has stated:

> "The whole picture that the Administration has presented of Salvadoran insurgent operations being planned, directed and supplied from Nicaragua is simply not true. . . . The Administration and the CIA have systematically misrepresented Nicaraguan involvement in the supply of arms to Salvadoran guerrillas to justify its efforts to overthrow the Nicaraguan Government." (*NYT* 6/11/84.)

309. This assertion has been substantiated by Pentagon officials and diplomats. In addition, a number of independent investigations conducted by United States newspapers have failed to discover any evidence of the alleged arms flows. (*Christian Science Monitor* 5/2/84; *BG* 6/10/84; *LAT* 6/16/84.) It is hard to believe that if there were any substantial transfer of arms it could be successfully concealed from all these investigative efforts.

310. Moreover, the justification of self-defense fails because the procedural requirements stipulated in Article 51 for the exercise of the inherent right of self-defense have not been complied with. The Article provides that "[m]easures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council . . .". This requirement is not merely a procedural formality, but rather an important additional limitation on the exercise of the right of self-defense. As Waldock explains:

> "the exercise of the right of self-defence is made subject to the subsequent judgment and control of the international community. The individual State necessarily decides whether or not to use force in self-defence but the propriety of its decision is a matter for the United Nations". ("The Regulation of the Use of Force by Individual States in International Law", 81 Hague *Recueil* (1952-II), p. 495.)

311. Pursuant to this conception of the reporting requirement, when the United States dispatched troops to Lebanon in 1958, for example, President Eisenhower announced: "In conformity with the Charter, the United States is reporting the measures taken by it to the Security Council . . . ." The United States has never made the slightest effort to fulfill this requirement in the present case.

312. Finally, it is universally agreed that the legitimate exercise of the right of self-defense under both customary law and the Charter is subject to the requirement of proportionality. The application of this requirement to the facts of the present case would necessarily limit United States activities to Salvadoran territory. Thus Judge Lachs writes:

> "The counter-measures envisaged need not be identical in nature to those *against* which they are directed ... but they should be *ejusdem generis*, are bound to be proportionate. For example, if the attack did not amount to incursion into the territory of another State, the same should be true of the corresponding act of self-defence." (169 Hague *Recueil* (1980-IV), p. 164.)

313. Even assuming *arguendo* the truth of the United States allegations of arms shipments to El Salvador, the United States response is on a completely different scale. It comprises at least $70 million of assistance to a mercenary army of 15,000 men operating in and against the territory of Nicaragua, a major commitment of United States military resources for logistics and other support, and attacks by air, land and sea against economic targets and the civilian population, resulting in the death or injury of thousands of innocent civilians and millions of dollars of damage. This deliberate application of force at extreme levels of violence and brutality indisputably violates the proportionality requirement, and as such is fundamentally incompatible with the very notion of legitimate self-defense.

Conclusion

314. Article 2 (4) was established in 1945 as an independent legal norm, binding by its terms on all Members of the United Nations. Occasionally it has been argued, essentially on *rebus sic stantibus* grounds, that the prohibition on the use of force has been invalidated, since the United Nations machinery for collective security has not operated as originally envisioned. However, the validity of Article 2 (4) was never intended and has never been seriously regarded as contingent on the successful workings of the United Nations as an organization. Former President Jiménez de Aréchaga, writing in 1958, maintained, on the contrary, that the separation of the Article 2 (4) prohibition from the enforcement provisions of Chapter VII represented one of the major strengths of the Charter:

> "Este principio cuarto configura una *obligación* entre los Estados, que subsiste en toda su integridad a pesar de cualquier deficiencia o fracaso que pueda tener el mecanismo de las Naciones Unidas; a pesar de que el Consejo de Seguridad no adopte una decisión por culpa del veto, o por cualquier otra circunstancia, siempre continuará en vigor este precepto entre los Estados. Recuérdese que el Pacto Briand-Kellogg no establecía mecanismo alguno: se limitaba a condenar la guerra y a renunciar a ella. Este paragrafo 4, en sí, tiene tanta fuerza como el Pacto de París, y es mucho más perfecto desde el punto de vista técnico." (*Derecho Constitucional de las Naciones Unidas*, 1958, p. 90.)

Translation provided:

> "This fourth principle constitutes an *obligation* among the States, that exists in all its integrity in spite of any deficiency or failure that the United Nations mechanism might have; in spite of the Security Council's not adopting a decision due to the veto, or due to any other reason, this precept

> will always continue in effect among the States. Remember that the Briand-Kellogg Pact did not establish any mechanism: it was limited to condemning war and renouncing it. This paragraph 4, in itself, has as much force as the Paris Pact, and is much more perfect from the technical point of view."

315. Twenty years later, he found confirmation of this analysis in the passage of the United Nations Declaration on Principles of International Law concerning Friendly Relations, which he interprets as

> "confirming the independent validity and the continued force of this fundamental obligation [Article 2 (4)] despite the failings and shortcomings of the machinery established in the Charter to maintain peace and security". (159 Hague *Recueil* (1978-I), p. 88.)

316. From North America, Professor Henkin likewise writes:

> "the draftsmen of the Charter were not seeking merely to replace 'balance of power' by 'collective security'; they were determined, according to the Preamble, to abolish 'the scourge of war'. All the evidence is persuasive that they sought to outlaw war, whether or not the UN organization succeeded in enforcing the law or establishing peace and justice. And none of the original members, nor any one of the new members, has ever claimed that the law against the use of force is undesirable now that the United Nations is not what had been intended." (*How Nations Behave*, 1979, p. 138.)

317. The Court itself has unequivocally recognized the overriding validity of the norm against the use of force. In the now celebrated passage from the *Corfu Channel* case, it stated:

> "The Court can only regard the alleged right of intervention as the manifestation of a policy of force, such as has, in the past, given rise to most serious abuses and such as cannot, *whatever be the present defects in international organization*, find a place in international law." (Emphasis added.) (*I.C.J. Reports 1949*, p. 35.)

318. Article 2 (4) remains, as it was in the beginning, the cornerstone, not only of the United Nations Charter itself, but of the international legal system that has been constructed upon it. The Article was designed to establish the rule of law in international affairs by disestablishing the rule of force, and to redress the unequal balance of power between great nations and small. Without it, as the Court has said, intervention would necessarily "be reserved for the most powerful States, and might easily lead to the perversion of the administration of international justice itself". (*Ibid.*, pp. 34-35.) It is significant that only in the forum of the International Court of Justice can Nicaragua face the United States as an equal, with the outcome of the dispute unaffected by the overwhelming military and economic power of its adversary. Nicaragua is asking the Court not only to vindicate its legal rights but again to defend the administration of international justice from perversion at the hands of the strong.

CHAPTER IV

THE ACTIONS OF THE UNITED STATES ESTABLISHED BY THE EVIDENCE BEFORE THE COURT ARE IN VIOLATION OF UNITED STATES OBLIGATIONS UNDER THE CHARTER OF THE ORGANIZATION OF AMERICAN STATES

Section I. The Use of Force by the United States against Nicaragua in Violation of the United Nations Charter Is Equally a Violation of Articles 20 and 21 of the Charter of the Organization of American States

319. The United States and Nicaragua are both members of the Organization of American States. As such, they have bound themselves not to resort to the use of force, except in the case of self-defense or as authorized by the Organ of Consultation of the Organization.

320. Article 21 of the Charter constitutes an unambiguous prohibition on the use of force. It provides:

> "The American States bind themselves in their international relations not to have recourse to the use of force, except in the case of self-defense in accordance with existing treaties or in fulfillment thereof."

This sweeping prohibition is reenforced by Article 20, which emphasizes that the territory of a State is to be held sacrosanct:

> "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized."

321. Thus, since the provisions of the OAS Charter prohibiting the use of force are coterminous with the stipulations of the United Nations Charter, the violations by the United States of its obligations under the United Nations Charter, demonstrated in Chapter III of the Memorial also, and without more, constitute violations of Articles 20 and 21 of the OAS Charter.

Section II. The Use of Coercive Measures by the United States against Nicaragua to Force It to Change Its Government or Politics Constitutes Intervention in the Internal and External Affairs of Nicaragua in Violation of Article 18 of the OAS Charter

322. Because of the historic Latin American concern with "intervention", the Charter of the Organization of American States addresses that problem expressly. Article 18 of the Charter provides:

> "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also

> any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements."

The provision is reenforced by Article 19 of the Charter, which prohibits, "the use of coercive measures" of any kind "to force the sovereign will of another State and obtain from it advantages of any kind". The article appears at first glance to be superfluous in that the acts it prohibits are already proscribed by Article 18. The very existence of Article 19, however, indicates the importance the draftsmen placed on ensuring that the prohibition on intervention was fully comprehensive. (Garcia-Amador (ed.), *The Inter-American System: Treaties, Conventions and Other Documents*, Vol. I, Part I, 1983, p. 92[100].)

323. There is no doubt that the sweeping prohibition of these two articles comprehends the acts of the United States in Nicaragua. Its plain meaning is to preclude intervention whether it be by one State or more than one State; whether directly or indirectly; whether in the internal or the external affairs of a State; whether by force or any other means; and whether against the personality of the State or against its political, economic, or cultural elements. No exceptions are permitted other than self-defense as provided in Article 21 and collective action as directed by the Organ of Consultation under Article 22.

A. *The Historical Background of the Non-Intervention Articles of the OAS Charter*

324. The inclusion of Articles 18 and 19 in the OAS Charter have a special significance for this case. They marked the climax of a long struggle by the Latin American States to secure guarantees of non-intervention from "the colossus of the north". This extreme concern of the Latin American States with the problem of intervention is rooted in more than a century of unhappy history, the defining feature of which was repeated United States intervention by military and other means.

325. The story begins in 1823, when President James Monroe of the United States enunciated the Monroe Doctrine, in which he said that any attempt by a European Power to reassert itself in the Western Hemisphere would be considered as "dangerous to our peace and security" and the "manifestation of an unfriendly disposition toward the United States". (Richardson (ed.), *Messages and Papers of the Presidents of the United States*, 1897, pp. 776-789; Moore, *A Digest of International Law*, 1906, Vol. VI, p. 401.)

326. In its original context the Monroe Doctrine was a statement of the principle of non-intervention, directed at the European powers. As such it was received very favorably by many Latin Americans. (Antokoletz, *Tratado de Derecho Internacional Publico*, 1951, Vol. II, p. 31.) They were soon disappointed. As time went on, the United States interpreted the Doctrine as authorizing a very broad range of unilateral United States intervention in the affairs of Latin American countries, whether in response to European involvements or conflicts among Latin American States themselves or internal developments thought inimical to United States interests. Secretary of State Olney in 1895 described the United States position with respect to Latin America:

> "Today the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or goodwill felt for it. It is not simply because of its high character as a civilized state, nor because wisdom

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[100] This language was carried over into the provisions of the United Nations General Assembly resolutions on intervention in 1965 and 1981.

> and justice and equity are the invariable characteristics of the dealings of the United States. It is because, in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable against any or all other powers." (Moore, *A Digest of International Law*, 1906, Vol. VI, p. 553.)

This declaration forshadowed the "Roosevelt Corollary" to the Monroe Doctrine asserting a general United States police power in the Western Hemisphere. In 1904, President Theodore Roosevelt stated

> ". . . chronic wrongdoing or an impotence which results in a general loosening of the ties of civilized society may in America, as elsewhere, ultimately require intervention by some civilized nation" (*Ibid.*, sec. 967.)

This formula in effect served as a justification for intervention by the United States whenever, in its judgment, the standards of "civilization" required it.

327. In the 20th century, as the United States assumed a larger role in world affairs, there were numerous instances of intervention, under the rubric of the Monroe Doctrine thus extended, in the affairs of Latin American States. During this period, Colombia, Cuba, the Dominican Republic, Haiti, Honduras, Mexico and Nicaragua all were victims of United States intervention in its most extreme form: occupation by United States armed force. In the process, the United States exacted treaties from Cuba, Panama and other countries, purporting to authorize future interventions. In Nicaragua itself the United States military presence was almost continuous from 1909 to 1933, a period of over 20 years. Upon its withdrawal in 1933, the United States installed the Somoza dictatorship, which brutally ruled Nicaragua for the next half-century.

328. The repeated extension and application of the Monroe Doctrine led to increasing distrust of the United States among the people and governments of Latin America. (Antokoletz, *Tratado del Derecho Internacional Publico*, 1951, Vol. II, p. 48.) Looking back on this period, the Mexican diplomat and representative to the Organization of American States, Luis Quintilla, observed:

> "In the previous fifty years before 1933, the United States had intervened some sixty times in the affairs and territories of its Latin American neighbors — especially in the Caribbean . . . how could one speak of interamerican solidarity, pan Americanism, or good neighborliness when the stumbling block in the path of the good relations was nothing less that the most powerful republic of the hemisphere? The situation could change only if and when the United States decided to abandon once and for all its imperialistic interventionism." (*A Latin American Speaks*, 1943, p. 156.)

329. Against this background, it is not surprising that, in a series of Inter-American Conferences in the 1920s and 1930s, the Latin American States pressed with increasing insistence, and against United States resistance, for a commitment forswearing any claim of right to unilateral intervention. Among these, the Conferences of 1933 and 1936 were notable in that the formulas reached foreshadowed the language ultimately incorporated in the OAS Charter. The Convention on Rights and Duties of States, signed at the 1933 Conference, proclaims that

> "The territory of a State is inviolable and may not be the subject of military occupation nor of other measures of force imposed by another State directly or indirectly or for any motive whatsoever even temporarily." (Art. 11; compare OAS Charter, Art. 20.)

330. In an Additional Protocol to the Convention, done at the 1936 Conference

> "The High Contracting Parties declare[d] inadmissible the intervention of any one of them, directly or indirectly, and for whatever reason, in the internal or external affairs of any other of the Parties." (Additional Protocol Relative to Non-Intervention (Buenos Aires, 1936); compare OAS Charter, Art. 18.)

331. The adoption of the OAS Charter, in the post-war years, came at a time the United States felt itself increasingly in need of the collective support of the Latin American countries against purported threats to its own security from outside the hemisphere. It, therefore, once again, formally and in the most solemn manner, unequivocally bound itself to the principles and norms of non-intervention that had been elaborated over the earlier years. This United States commitment to non-intervention is recognized as the consideration for the endorsement by the other Latin American States of the principle of hemispheric collective security, so strongly urged by the United States. According to Cesar Sepulveda, the ex-dean of the Law School of the Autonomous National University of Mexico, the prohibition against all intervention other than that authorized by the OAS was the *quid pro quo* of Latin American participation in regional organization. ("The Reform of the Charter of the Organization of American States", 137 Hague *Recueil* (1972-III), pp. 81, 96. See also Fenwick, "Intervention: Individual and Collective", 39 *American Journal of International Law* (1945), pp. 653-659.)

B. Legal Authorities as to the Meaning of "Intervention" in the OAS Charter

332. In light of this history, it is not surprising that there is almost universal consensus among American publicists, North and South, as to the sweeping nature of the non-intervention provisions of the OAS Charter. Ambassador David Castro of El Salvador, the Chairman of the Special Committee, stated that they

> "condemn [ ] every action or attempted action that tends to force a State, in spite of its sovereignty, to adopt any attitude which the State believes contrary to its interests". (*Annals of the Organization of American States*, 1949, Vol. I, p. 28.)

333. The distinguished Latin American publicist, former President Jiménez de Aréchaga, holds that the essence of "intervention" is "dictatorial interference" (*El Derecho Internacional Contemporaneo*, 1980, pp. 137-138.) This idea of intervention as "dictatorial interference" highlights the element common to most American definitions of intervention — the intent to coerce another State. It is this aspect of intervention that makes intervention wholly incompatible with the sovereignty of independent States[11]. Among the many American authorities who support this definition of "intervention" we list the following:

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[11] Even before the incorporation of the principle of non-intervention into conventional Inter-American law, the great majority of Latin American jurists held that intervention was inconsistent with national sovereignty and independence, and so was a violation of general international law. Among the most notable advocates of a comprehensive prohibition have been: Antokoletz, *Tratado de Derecho Internacional Publico*, 1951, Vol. II, pp. 15-16; Bello, *Principio de Derecho Internacional*, 1883, Vol. I, pp. 52 ff.; Calvo, *Le droit international théorique et pratique* (Rousseau, ed.), 1896, Vol. I, p. 267; Podesta Costa, *Manual de Derecho Internacional Publico*, 1947, pp. 51 ff.; Ursua, *Derecho Internacional Publico*, 1938, pp. 153-154; Yepes, 47 Hague *Recueil* (1934-I), pp. 745-748.

Antokoletz, *Tratado de Derecho Internacional Publico*, 1951, Vol. II, pp. 15-16.
Cisneros, *Derecho Internacional Publico*, 1966, Vol. I, p. 505.
Jiménez de Aréchaga, "International Law in the Past Third of a Century", 159 Hague *Recueil* (1978-I), p. 115.
Podesta Costa and Ruda, *Derecho Internacional Publico*, 1979, p. 97.
Sierra, *Derecho Internacional Publico*, 1963, pp. 182-183.
Thomas and Thomas, *Non-Intervention*, 1956, p. 72 ; and *The Organization of American States*, 1963, p. 160.
Wright, "Recognition, Intervention and Ideologies", *The Indian Yearbook of International Affairs*, 1958, Vol. VII, pp. 89, 99-100, quoted in Whiteman, *Digest of International Law*, 1965, Vol. 5, pp. 452-453.

334. The Court has also recognized that the principle of non-intervention is "one of the most firmly established traditions of Latin America". To reiterate the language of the *Corfu Channel* case, language that might be applied to the present situation :

> "The Court can only regard the alleged right of intervention as the manifestation of a policy of force, such as has, in the past, given rise to most serious abuses and such as cannot, whatever be the present defects in international organization, find a place in international law. Intervention is perhaps still less admissible in the particular form it would take here ; for, from the nature of things, it would be reserved for the most powerful States, and might easily lead to perverting the administration of international justice itself." (*I.C.J. Reports 1949*, pp. 34-35.)

C. The Position of the United States

335. Since 1948, United States officials have repeatedly recognized the obligation of the United States under the constituent instruments of the Inter-American system, and have reaffirmed its commitment to the principle of non-intervention. Indeed, in 1943, well before the adoption of the OAS Charter, Under Secretary of State Welles stated :

> "At two inter-American conferences — Montevideo in 1933 and Buenos Aires in 1936 — all the American republics solemnly outlawed intervention by one country in the affairs of another.
>
> Pursuant to the spirit of these obligations, the last vestiges of United States intervention have been liquidated :
>
> Every marine has been withdrawn.
>
> All fiscal supervision in other American countries has been eliminated.
>
> Every treaty by which the United States was granted the right to intervene in other republics of this hemisphere, for whatever purpose, has been abrogated." (Address to the Rotary Club of New York, 15 April 1943, quoted in Whiteman, *Digest of International Law*, 1965, Vol. 5, p. 420.)

336. The Report of the United States Delegation on the OAS Charter gave special attention to the stipulation in Article 18 that the principle of non-intervention "prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements". It said that the sentence "had universal significance and was a reaction to fear of types of indirect aggression such as those to which certain eastern European countries have been subjected". (*Report of the Delegation of the United States of America to the Ninth International Conference of American States*, 1948, p. 38.)

337. Throughout the 1950s and 1960s, indeed, the United States exploited the non-intervention principle in aid of its own policies.

President Eisenhower in 1953 recognized:

> "Any nation's right to a form of government and an economic system of its own choosing is *inalienable*. Any nation's attempt to dictate to other nations their form of government is indefensible." (Emphasis added.) (Quoted in Whiteman, *Digest of International Law*, 1965, Vol. 5, p. 452.)

338. On 20 May 1958 Secretary of State Dulles responded to a news correspondent saying:

> "As you know, one of the cardinal doctrines for this hemisphere, which is affirmed and reaffirmed on every occasion by the American Republics, is the doctrine of noninterference in the internal affairs of other countries. Their economic and political interdependence with the United States is such that to a peculiar degree — a greater degree than probably any other area in the world — if we attempted to adjust our relations according to our appraisal of their government, we would become involved in their internal affairs." (Quoted in *ibid.*, p. 497.)

339. Secretary of State Herter called non-intervention the "most important foundation stone" of Inter-American relations and stated:

> "The United States has accepted this principle and with the years has become increasingly convinced of its importance to the entire inter-American relationship. The non-intervention principle is essential to confidence among the 21 member governments of this Organization, and that confidence is, in turn, essential to creative effort and progress in the collective achievement of the great purposes set forth in the charter of our Organization." (Statement at the Fifth Meeting of Consultation of Ministers of Foreign Affairs of the American States, Santiago, Chile, 13 August 1959, quoted in *ibid.*, p. 562.)

340. Perhaps the most succinct account of the current status of the Monroe Doctrine was President Kennedy's response to a suggestion that it might be used to justify the unilateral use of force against Cuba during the missile crisis: "The Monroe Doctrine," he snapped, "what the hell is that?" (Quoted in Chayes, *The Cuban Missile Crisis*, 1974, p. 23.)

341. In the face of a changing world, of the growing importance of foreign trade, and of the increasing need for the cooperation of the other nations of the hemisphere, the United States had gone from the adamant refusal to accept any limit on its right to intervene unilaterally in Latin American affairs 20 years before, to an agreement to adhere to the principle of nonintervention. In exchange the United States benefited from the acceptance of collective responsibility for security in this hemisphere.

342. At the same Santiago conference, Secretary Herter expanded on the United States understanding of the meaning of the prohibition:

> "Some of these movements [that are receiving arms from official sources in other countries despite public declarations of policies to the contrary] have been justified before the public on the grounds that they were undertaken for the purpose of establishing more democratic regimes in certain countries and that thereby they helped to fulfill a principle of the charter of the OAS. I do not wish to speculate on what the motives may have been behind these interventionist activities. Yet, whether or not they

> were commendable, we cannot conduct our inter-American relations on the theory that the end justifies the means and that the charter and other treaties may be flouted at will.
>
> As you well know, the United States yields to no country in its dedication to democratic principles .... We are convinced that this form of political progress can and must go forward and that it deserves the moral support of peoples of America.
>
> We are equally convinced, however, that the basis for the soundest and most durable growth of democratic institutions within a country stems from the people themselves. History has shown that attempts to impose democracy upon a country by force from without may easily result in the mere substitution of one form of tyranny for another. . . ." (Quoted in Whiteman, *Digest of International Law*, 1965, Vol. 5, pp. 562-564.)

343. The United States has, time and time again, invoked the prohibitions against intervention in the OAS Charter to rally Latin American countries against activities it saw as threatening to its security interests. It described those activities in terms that fit precisely with the facts of this case: the use of irregular forces, organized, armed and directed from outside, to overthrow the established government of an American State. (See, e.g., Speech of United States Secretary of State Dean Rusk at the Eighth Meeting of Consultation of the Ministers of Foreign Affairs, 31 January 1962, Punta del Este, *Actas y Documentos*, para. 122, at pp. 125-126; Statement of United States Secretary of State Herter at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, 12 August 1959, Santiago, Chile, Department of State *Bulletin*, Vol. XLI, pp. 301, 302-303, quoted in Whiteman, *Digest of International Law*, 1965, Vol. 5, pp. 562-564.) To hold the United States liable in the present case for intervention in the affairs of Nicaragua in violation of Article 18 of the OAS Charter is no more than to hold it to the standards that it has repeatedly sought to impose on others[12].

344. The Inter-American community chose to regulate "collective self-defense" closely, because it was fully aware of the danger of collective action against the sovereignty of another State. It was for this reason that the prohibition on intervention was expanded when incorporated into the OAS Charter to include intervention by "a state *or group of states*". (Garcia-Amador (ed.), *The Inter-American System: Treaties, Conventions and Other Documents*, Vol. I, Part I, p. 91.) The Court cannot permit the United States to evade these regulations to serve what it deems in its own unreviewable judgment, to be the proper political solution to the problems of Central America.

Conclusion

345. The OAS Charter represented a special law for the American States, colored by their history and tailored to their needs. Viewed in the abstract, the Charter's prohibitions of intervention and the use of force may seem only to reiterate universal norms of international law. However, seen against the backdrop

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[12] The United States could not rely on the exceptions in the OAS Charter for self-defense to justify its unlawful intervention in and against Nicaragua. The right to self-defense in Article 21 of the OAS Charter is coextensive with that in Article 51 of the United Nations Charter. As discussed in Chapter III, *supra*, Article 51 provides no justification for the actions of the United States that are the subject of this case.

of the history of the Western Hemisphere, they take on a pointed meaning and a particular relevance for this case.

346. To be sure, these Charter provisions were to be applicable to all the parties. History shows, however, that they were drawn with a particular eye to the United States, "the most powerful republic of the hemisphere". It was use of force by the United States and intervention by the United States that the others chiefly feared and against which they sought protection. The actions shown by the evidence in this case are the very actions by the very State that the OAS Charter was intended to prevent.

347. The United States was well aware of the concerns of its treaty partners when it accepted the obligations of the Charter. It knew the history and knew the attitudes of its Latin American neighbors. It knew that it was itself the principal object of the prohibitions of the Charter. Yet it accepted them freely and willingly, knowing that the United States, in exchange, would benefit from the participation of its neighbors in the Organization of American States.

348. It is this self-denying ordinance, freely undertaken, that the United States has undeniably breached by its use of force and intervention in and against Nicaragua. The Court should have no hesitation in so adjudging.

CHAPTER V

THE MULTILATERAL TREATY RESERVATION (PROVISO (C)) TO THE UNITED STATES DECLARATION ACCEPTING THE JURISDICTION OF THE COURT HAS NO APPLICATION TO THIS CASE

349. In the proceedings on jurisdiction and admissibility, the United States invoked the reservation in proviso *(c)* of its Declaration accepting the jurisdiction of the Court (the "multilateral treaty reservation" or "Vandenberg Amendment"). In its Judgment, the Court concluded that this objection

> "does not possess, in the circumstances of this case, an exclusively preliminary character, and that consequently it does not constitute an obstacle for the Court to entertain the proceeding . . .". (*Judgment*, para. 76.)

As a consequence of the United States decision not to participate further in the case, this objection has not been renewed in the present phase of the proceedings. Nevertheless, in view of the attitude Nicaragua has taken as to its responsibilities under Article 53 of the Statute of the Court (see Chap. II, *supra*), it will address the issue of the Vandenberg Amendment in this Memorial.

Section I. The Admissions of the United States as to the Purpose of Its Actions, Made after Its Withdrawal from the Proceedings, Destroy Any Possibility of Applying Proviso *(c)* Here

350. As with other issues in this case, developments since the Court's Judgment of 26 November 1984 have fundamentally transformed the legal situation with respect to proviso *(c)*. The proviso, it will be recalled, states that the acceptance of the Court's jurisdiction shall not extend to — "disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are parties to the case before the Court . . ."

351. In the preliminary phase, the only plausible argument the United States could make that the decision of the Court would "affect" absent parties to the relevant treaties was that the adjudication of a potential United States justification of self-defense might somehow limit the right of collective self-defense of Nicaragua's neighbors. But, as we have shown, the United States has now abandoned all pretense that its military and paramilitary activities in and against Nicaragua are for the purpose of "collective self-defense" or the interdiction of an alleged flow of arms to rebels in El Salvador. (See Chap. II; Chap. III, Sec. III, *supra*.) Since 18 January 1985, President Reagan and other senior officials of his administration have publicly and repeatedly asserted that the purpose of these activities is to overthrow the present Nicaraguan Government. These statements have been presented *in extenso* in earlier sections of the Memorial. It will suffice here to recall only the most salient.

352. In his nationally televised news conference on 21 February 1985, President Reagan announced that the objective of United States policy is the "removal" of the Government of Nicaragua "in the sense of the present structure" unless "the present government would turn around and say all right, if they say 'Uncle'".

353. The consequence of this unqualified admission as to the true purpose of the United States activities is that the issue of self-defense has been removed

from this case (See Chap. III, Sec. III (A); and see generally Chap. III, Sec. III.) This precludes the application of proviso *(c)* of the United States Declaration.

354. The United States argument for the application of the proviso, to repeat, was based on the premise that the activities complained of in Nicaragua's Application were undertaken by the United States for the purpose of "collective self-defense" with one or more of three other Central American States: El Salvador, Costa Rica and Honduras. Accordingly, the United States argued that a decision by the Court that restricted the United States in conducting these activities would necessarily "affect" the other States by limiting their right to participate with the United States in their "collective self-defense".

355. With the elimination of the claim that the United States activities in and against Nicaragua are for the purpose of "collective self-defense", the argument that El Salvador, Costa Rica or Honduras would be "affected" by a decision of the Court requiring the United States to cease and desist from such activities simply evaporates. There is therefore no basis for the application of proviso *(c)* in this case.

Section II. Nicaragua's Arguments Made at the Jurisdictional Phase Likewise Preclude the Application of the Proviso Here

356. In the Jurisdictional phase, Nicaragua made three arguments showing that proviso *(c)* was inapplicable:

First, the proviso, properly understood, simply restated portions of Article 59 of the Statute of the Court. It was inserted out of an abundance of caution and had no independent significance in limiting the United States Declaration.

Second, neither El Salvador, Costa Rica, nor Honduras would be or could be "affected" by a decision in this case, since no legitimate rights or interests of those States would be prejudiced by an adjudication of Nicaragua's claims against the United States.

Third, in any case, claims based on general and customary international law are not covered by the proviso and so are before the Court for determination. It is not necessary to repeat these arguments at length here. They were fully developed in the Memorial and oral hearings in the Jurisdiction and Admissibility phase. (Memorial, **I**, pp. 429 ff.; *Verbatim Record*, 9 October 1984, **III**, pp. 61-64; 17 October 1984, *ibid.*, pp. 274-280.) Nicaragua maintains its position on these points in all respects and reiterates the arguments in support of these conclusions made in the earlier phase of the case. At this stage, it is necessary only to emphasize certain salient points.

A. The Judgment of the Court of 26 November 1984 Establishes that Nicaragua's General and Customary Law Claims and Its Claims under the Treaty of Friendship, Commerce and Navigation of 1956 Are Properly before the Court for Adjudication on the Merits

357. In its Judgment of 26 November 1984 [*I.C.J. Reports 1984*, p. 392], the Court held that Nicaragua's claims under general and customary international law were not barred by proviso *(c)*:

> "It may first be noted that the multilateral treaty reservation could not bar adjudication by the Court of all Nicaragua's claims, because Nicaragua,

in its Application, does not confine those claims only to violations of the four multilateral conventions referred to above (para. 68). On the contrary, Nicaragua invokes a number of principles of customary and general international law that, according to the Application, have been violated by the United States. The Court cannot dismiss the claims of Nicaragua under principles of customary and general international law simply because such principles have been enshrined in the texts of the conventions relied on by Nicaragua. The fact that the above-mentioned principles, recognized as such, have been codified or embodied in multilateral conventions does not mean that they cease to exist and to apply as principles of customary law, even as regards countries that are parties to such conventions. Principles such as those of the non-use of force, non-intervention, respect for the independence and territorial integrity of States, and the freedom of navigation, continue to be binding as part of customary international law, despite the operation of provisions of conventional law in which they have been incorporated. Therefore, since the claim before the Court in this case is not confined to violation of the multilateral convention provisions invoked, it would not in any event be barred by the multilateral treaty reservation in the United States 1946 Declaration." (Judgment, para. 73.)

158. The foregoing pronouncement represents the law of this case. It is a conclusive determination by the Court that Nicaragua's claims under general and customary law are properly before the Court for adjudication. Likewise, the claims under the Treaty of Friendship, Commerce and Navigation, which is a bilateral treaty between Nicaragua and the United States, are unaffected by proviso (c) on any interpretation of its meaning.

B. The Inapplicability of Proviso (c) in This Case Has No Bearing on the Interpretation of Reservations Such as Those of India, El Salvador and the Philippines

159. The multilateral treaty reservations of India, El Salvador and the Philippines, although perhaps suggested by the Vandenberg Amendment, are, in fact fundamentally different from the United States reservation in proviso (c). These reservations, of which India's is typical, exclude from the State's acceptance of the compulsory jurisdiction

> "disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court . . ."

160. By their plain, unambiguous terms, these reservations deprive the Court of compulsory jurisdiction in respect of any Application in which claims are asserted under a multilateral treaty and not all the parties to the treaty are parties to the case. By contrast, proviso (c) of the United States Declaration requires a determination that treaty parties not before the Court would be "affected by" the decision. Both the United States and Nicaragua are in full agreement that proviso (c) applies only to "affected" parties to the treaty and not to *all* parties. Thus any interpretation of proviso (c) holding it inapplicable in this case could have no bearing on the multilateral treaty reservations of India, El Salvador or the Philippines. As President Nagendra Singh observed in his separate opinion on jurisdiction and admissibility:

> "It will appear from the wording of the reservations of India and the Philippines that they both clearly maintain their essentially preliminary character and would therefore unambiguously act as a bar to the jurisdiction

> of the Court at the very start. This would be so because their meaning is clear and the application is simple and straightforward, as opposed to the Vandenberg reservation of the United States type which poses several problems concerning the determination of 'States affected by the decision of the Court'." (*Judgment, I.C.J. Reports 1984*, p. 449 (separate opinion of Judge Nagendra Singh).)

361. Only two States, Pakistan and Malta, have reservations worded similarly to that of the United States. But even as to these two, any interpretation of proviso (c) in this case would have little bearing. It would be heavily conditioned by the facts of the present case, in particular the peculiar legislative history of the proviso in the United States Senate. As such, it would have no direct application to other similarly worded reservations.

C. *The United States Arguments for the Application of the Proviso Are Unfounded, Even Apart from the Recent Admissions of the United States as to the Purpose of Its Actions*

362. The United States argument for the application of the proviso to this case is summarized in its Counter-Memorial on Jurisdiction and Admissibility:

> "Nicaragua's Application comes directly within the terms of the multilateral treaty reservation and gives rise to all of the concerns that underlie the reservation. Adjudication of Nicaragua's claims: (1) may prejudice the United States by binding the United States to a decision of the Court without similarly binding the other treaty parties involved in the regionwide dispute in Central America; (2) may also prejudice the United States by determining the United States rights and duties in the absence of directly relevant facts and documents that are in the sole possession of absent States; and (3) may prejudice the rights of other Central American States by determining, in their absence, the lawfulness of responses to Nicaragua's armed attacks against them, including their inherent rights to engage in self-defense and to request United States assistance in resisting Nicaragua's attacks." (Counter-Memorial, p. 254.)

All of these arguments are unfounded.

363. As Nicaragua pointed out at the oral hearings on jurisdiction and admissibility, there is nothing whatsoever in the text of proviso (c) or in the preparatory work to suggest that any of these "concerns" motivated the drafters. However, even assuming arguendo that the proviso was intended to reflect these "concerns" and that it should be interpreted accordingly, it does not bar adjudication of Nicaragua's claims.

364. The first of these "concerns" is irrelevant to the circumstances of this case. No interest of the United States could be prejudiced by the adjudication of Nicaragua's claims in the absence of other Central American countries, because these claims arise from a bilateral dispute between Nicaragua and the United States.

365. The United States has never suggested how it could be prejudiced by an adjudication of Nicaragua's claims in these circumstances. The only situation where the United States might be prejudiced would be where the interests of the absent States are in some way adverse to those of the United States. In such a case, adjudication might expose the United States to a series of identical suits, should the other States later decide to seek redress in the Court. Or the United States might be prejudiced by an adjudication that would bind it, leaving the

absent States free to act at the expense of the United States, whose hands would be tied by the Court's judgment.

366. None of these possibilities exists here. According to the United States itself, there is no adversity of interest between it and the absent States. Rather it is in the interests of these absent States that the United States claimed to be acting. The only State adverse to the United States is Nicaragua, and Nicaragua is present before the Court and will be bound by its judgment.

367. It also bears emphasis that Nicaragua asserts no claims against any State that is not a party to the case. Relief is sought only against the United States. To adjudicate Nicaragua's claims, the Court must determine only whether the United States has committed international legal wrongs against Nicaragua. As Judge Ruda observed in his separate opinion on jurisdiction and admissibility:

> "It is true that there is a complex and generalized conflict among Central American countries, but not the whole conflict, with all its economic, social, political and security aspects, is submitted to the Court, only the claims of Nicaragua against the United States. Nicaragua has not presented any claims against Honduras, El Salvador and Costa Rica.
>
> In my analysis there are two disputes: the first, Nicaragua v. United States, and the second, involving the grievances of El Salvador, Honduras and Costa Rica against Nicaragua. A decision of the Court in the first dispute will not affect the reciprocal rights, duties and obligations of these Central American countries. Whatever conduct, if any, that the Court would impose on the United States, such a decision would not debar the rights of these three countries vis-à-vis Nicaragua.
>
> For this reason, I think that the present situation is not the one provided for in proviso c), where a situation is foreseen, in which the United States, as a defendant, would be obliged to follow a certain course of action and the other parties to the dispute would be free . . ." (Footnote omitted.) (Judgment (separate opinion of Judge Ruda), paras. 24-26.)

368. As to the availability of facts, it is the absence of the United States, by its own choice, and after jurisdiction over it had been lawfully determined, that prevents it from trying to make a factual record in support of its position. As noted in Chapter II, supra, however, this difficulty, for which the United States is responsible, can be overcome under the terms of Article 53 of the Statute of the Court.

369. It is wholly unlikely that proviso (c) was enacted to protect the interests of third parties. Very rarely do States act from such altruistic motives when arranging for judicial settlement of disputes, and no example of such behavior has been called to the attention of the Court. But even on the unlikely assumption that proviso (c) was intended to protect third States from prejudice to their interests by an adjudication in their absence, it would still be inapplicable here. The supposed interests of these absent States are plainly beyond the scope of any decision the Court could render in this case.

370. It need hardly be said that El Salvador, Honduras and Costa Rica do not have, either separately or "collectively", a legal right to request that the United States overthrow Nicaragua's Government, or mine Nicaragua's ports, or carry out other military and paramilitary activities in and against Nicaragua for that purpose. Nor has any of these States, in its communications with the Court, claimed such a right or represented that it has requested the United States to engage in such activities. El Salvador and Honduras, in their communications to the Court, expressed only the desire that no action be taken that would curtail their right to receive military and other assistance from the United States. Costa

Rica has not even expressed the limited concerns to be found in the communications of the other two States.

371. For example, in El Salvador's Declaration of Intervention, filed on 15 August 1984, the stated concern is that there be no preclusion of the economic and military "support and assistance from abroad", including the United States. (Para. 12.) Nicaragua's Application does not place in issue El Salvador's right to receive such assistance from the United States or elsewhere. El Salvador's rights in this respect will not be affected by the Court's decision even if the Court grants all relief Nicaragua has requested.

372. The letter of Honduras to the Court, submitted by the United States as Exhibit III, Tab S, to the Counter-Memorial, states only that it

> "views with concern the possibility that a decision by the Court could affect the security of the people of the State of Honduras, which depends to a large extent on the bilateral and multilateral agreements of international cooperation that are in force, published and duly registered with the Office of the Secretary-General of the United Nations".

It is quite obvious that an ajudication in this case could not lead the Court "indirectly or unilaterally" to "limit these agreements". Nor does Nicaragua's Application call on the Court to limit the right of Honduras to receive military or other assistance from the United States or any other State. It follows that the Court's decision cannot affect the concerns put forward by Honduras in any way[13].

Conclusion

373. In the final analysis, the United States argument that absent States would be affected by a decision in this case reduced itself to the self-defense argument: the contention that the actions of the United States are being conducted in the exercise of the supposed right of collective self-defense of those absent States in response to an alleged "armed attack" by Nicaragua against them, and that any decision by the Court on the lawfulness of United States conduct would affect the right of self-defense of the other States. This argument is wholly undermined by the evidence now before the Court. It demonstrates irrefutably that the United States actions against Nicaragua are for the purpose of overthrowing the Government, and that they are not now nor have they ever been for the self-defense of any absent State.

374. Although this unlawful purpose was always implicit, the United States, after its withdrawal from these proceedings on 18 January 1985, dropped all pretense and fully admitted that its purpose is and has been to overthrow the Nicaraguan Government. It needs no argument that mining Nicaragua's ports,

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[13] Furthermore, as the Court observed, all three absent States have ample means of protecting any interests they may think are implicated in this case. All three have made Declarations accepting the compulsory jurisdiction of the Court, and are free at any time to present an Application against Nicaragua under Article 36 (2) if they have any claims against it. They are also free to employ the incidental procedure of intervention:

> "There is therefore no question of these States being defenceless against any consequences that may arise out of the adjudication by the Court, or of their needing the protection of the multilateral treaty reservation of the United States." (Judgment, para. 74.)

invading its air space, and carrying out military and paramilitary activities in and against Nicaragua for the purpose of overthrowing its Government cannot, under any circumstances, be brought within the rubric of legitimate self-defense. The absent States have no right to engage in such conduct or to have the United States do so on their behalf. (See Chap. III, Sec. III; Chap. IV, *supra*.) Therefore, no legitimate interest of these States could be affected by a decision of the Court that would cause the United States to terminate its unlawful activities.

175. This same pretext served as the principal basis on which the United States sought to avoid an adjudication of Nicaragua's claims by the Court. The Judgment of 26 November 1984 put the United States in a position in which it would have to substantiate its claims of legitimate self-defense against armed attack. Rather than attempt to do so, the United States withdrew from further participation in these proceedings. Accordingly, even if the United States interpretation of proviso *(c)* were accepted, it has become unmistakeably clear that it has no applicability in these proceedings.

CHAPTER VI

UNITED STATES VIOLATIONS OF ITS OBLIGATIONS UNDER THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION OF 21 JANUARY 1956

Section I. Object of the Chapter

376. In its Judgment of 26 November 1984 on questions of jurisdiction and admissibility, after having examined the arguments of the Parties concerning the jurisdictional basis constituted by the Treaty of Friendship, Commerce and Navigation concluded between the United States and Nicaragua on 21 January 1956 and entering into force on 24 May 1956 (Ann. K, Attachment 1), the Court held:

> "[T]here can be no doubt that in the circumstances in which Nicaragua brought its Application to the Court, and on the basis of the facts there asserted, there is a dispute between the Parties, *inter alia*, as to the 'interpretation or application' of the Treaty . . . Accordingly, the Court finds that, to the extent that the claims in Nicaragua's Application constitute a dispute as to the interpretation or the application of the Articles of the Treaty of 1956 . . ., the Court has jurisdiction under that Treaty to entertain such claims." (Judgment, para. 83.)

377. Alleged violations of the 1956 Treaty thus constitute valid causes of action. As will be established more fully in the following paragraphs, the military and paramilitary activities of the United States in and against Nicaragua

- deprive the Treaty of its object and purpose, and
- are in direct violation of numerous specific provisions of the Treaty.

Before turning to an analysis of the various violations of the 1956 Treaty, it is important to understand the scope of the Treaty.

Section II. The Scope of the Treaty of Friendship, Commerce and Navigation of 1956

378. In the written and oral proceedings on Jurisdiction and Admissibility, the Parties disputed the very nature of the Treaty of 21 January 1956. The United States purported to understand this Treaty as a purely commercial instrument which, as such, could have no relevance to the present case. (Counter-Memorial of the United States, **II**, pp. 52 ff.) For its part, Nicaragua contends:

(*a*) that the 1956 Treaty is much more than a simple Treaty of Commerce and regulates the relations between the two States over a broad spectrum of activities,

(*b*) that any other interpretation would contradict the "general rule of interpretation of treaties" in international law, and

(c) that all the provisions of the treaty, including those which do not have a purely commercial scope, are equally applicable to the Parties.

1. The 1956 Treaty Is a Treaty of Friendship

379. Independent of the fact that some of the claims of Nicaragua allege United States violations of its specific obligations with regard to freedom of navigation and commerce, rupture by the United States of the friendly relations between the two countries and the consequences of this rupture remain at the heart of the present dispute. The Treaty of 1956 is intended precisely to guarantee and to regulate such friendly relations, exactly as expressed in the first word of the Treaty's title.

380. There is no doubt, and Nicaragua does not suggest otherwise, that the 1956 Treaty includes many provisions of a commercial nature. Nevertheless, even the word "commerce", as it is used in the 1956 Treaty, must be understood in a very broad sense. As an eminent American specialist has explained:

> "The single label 'commercial' as applied to the type of bilateral treaty under consideration is perhaps misleading, for the scope of the subject-matter commonly included comprises far more than provisions concerning the exchange of goods." (Robert A. Wilson, "Postwar Commercial Treaties of the United States", 43 *American Journal of International Law* (1949), p. 264; see also Herman Walker, Jr., "The Post-War Commercial Treaty Program of the United States", 73 *Political Science Quarterly* (1958), pp. 57-58.)

381. If it is a treaty of commerce, *lato sensu*, the Treaty of 1956 is also much more than that. It is impossible to disregard the title, the preamble, and the many provisions which have nothing to do with the *jus communicationis* even understood in its broadest sense and including commerce *lato sensu* as well as navigation. The Preamble of the Treaty attests to the Treaty's broad purpose:

> "The United States of America and the Republic of Nicaragua desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples . . . have resolved to conclude a Treaty of friendship, commerce and navigation. . ."

382. Just as it is impossible to disregard the word "friendship" in the title of the Treaty, it is equally impossible to ignore the purpose of the Treaty, solemnly enunciated and reaffirmed in the body of the text. Thus, paragraph 3 of Article II states:

> "For the purpose of strengthening the friendly relations and understanding between the two countries by encouraging mutual contacts between their peoples. . . ."

Not only do these words have a significance in and of themselves that must be acknowledged, but they also establish a framework for understanding the full import of numerous provisions of the Treaty, which do not fall exclusively within either commerce — however defined — or navigation.

383. It is not possible to confer an exclusively commercial construction on Article I, which provides:

> "Each Party shall at all times accord equitable treatment to the persons, property, enterprises and other interests of nationals and companies of the other Party."

The broad ambit of this Article is echoed in numerous other provisions of the Treaty, such as:

> Article II, paragraph 2, which safeguards the rights of the citizens of each State while traveling in the territory of the other State, guaranteeing an unrestricted right of departure and return, and freedom of conscience, of religion, of expression and of communication;
> Article II, paragraph 3, which provides for the encouragement of tourism;
> Article III, which guarantees the security of the citizens of both States and includes provisions regarding the treatment of such citizens in case of imprisonment;
> Article V, paragraph 1, which provides access by the citizens of each Party to the courts of the other Party; and
> Article XI, paragraph 2, which concerns precisely those "nationals of either Party who are neither resident nor engaged in trade or other gainful pursuit within the territories of the other Party".

384. The objective of all these provisions is the promotion of good relations between the two States, which will, in turn, reinforce commercial ties. International commerce — which the Treaty is designed to promote and which the United States affirms is the sole object of the Treaty (Counter-Memorial of the United States, **II**, pp. 52 ff.), is inconceivable in the absence of relatively trusting and amicable relations. The simultaneous use in the title of the Treaty of the words "commerce" and "friendship" is not simply a matter of style. The two concepts reinforce one another, and are in fact interdependent: the strengthening of commercial ties is one means of promoting friendship between the two States, and, conversely, friendly relations between the Parties are a necessary condition for the growth of commerce.

385. This broader purpose was recognized in an oblique but distinct manner by Thorsten V. Kalijarvi, Deputy Assistant Secretary of State for Economic Affairs, during hearings held by the Committee on Foreign Relations of the United States Senate regarding FCN treaties with the Netherlands, Nicaragua and Iran:

> "Although the principal immediate incentive in the negotiation of these treaties [is the desire to help create conditions favorable to foreign private investment], the treaties have a broader purpose which is to establish a general legal framework for the maintenance of economic *and other relations* between the parties to the treaties." (Emphasis added.) (Commercial Treaties with Iran, Nicaragua and the Netherlands: Hearing before the Committee on Foreign Relations of the United States Senate, 84th Cong., 2d Sess. 2 (1956).)

386. There can be no doubt that in striving to conclude a large number of treaties of this type, the United States essentially sought to guarantee the protection of the commercial or, more broadly, economic and financial interests of its nationals abroad. However, it secured the agreement of its treaty partners by offering, in return, certain commercial advantages — such as the Most Favored Nation clause or the standard of national treatment — within a framework of more global arrangements which, in spirit, were likely to counterbalance the advantages conferred on United States economic interests.

387. In the case of Nicaragua, a small country, poor and underdeveloped, nothing would have been gained from the adoption, without some *quid pro quo*, of "purely commercial" provisions, such as are contained in the following articles:

> Article VI, paragraph 1, and Article VII, paragraph 1, relating to the protection of investments of nationals of one Party in the territory of the other

(Nicaraguan investments in the United States were and are virtually non-existent);

Article X, paragraph 1, relating to the protection of patents and trademarks (the flow of commerce was and is in this regard totally one-sided),

Article XI, notably paragraphs 1 and 4, relating to the privileges and immunities accorded to persons and companies engaged in scientific, educational, religious or philanthropic activities (this could only benefit United States citizens living in Nicaragua), or

Article XII, paragraphs 1 and 2, relating to capital transfers and foreign exchange restrictions (issues which would have importance primarily for potential investors).

388. As is to be expected in conventional relations, the counterpart existed, at least over the long term, in the reinforcement of friendly ties with the major power in the region, and the accompanying prospect of United States cooperation in the development of Nicaragua. It suffices in this respect to refer to the provisions of paragraphs 2 and 3 of Article X, according to which:

> "2. The Parties undertake to cooperate in furthering the interchange and use of scientific and technical knowledge, particularly in the interests of increasing productivity and improving standards of living within their respective territories.
>
> 3. Neither Party shall unreasonably impede nationals and companies of the other Party from obtaining on equitable terms, through normal commercial channels, the capital, skills, arts and technology it needs for its economic development."

These undertakings, particularly the first, go far beyond a simple regulation of exclusively commercial relations.

389. The close relationship between the three terms in the title of the Treaty and particularly between "friendship" and "commerce" is further confirmed by the history of FCN treaties in general. Treaties of friendship, commerce and navigation effectively constitute an ancient category and in fact are international instruments concluded in order to regulate simultaneously, as Fiore wrote at the beginning of this century, "les relations commerciales et les bons rapports d'amitié des Parties contractantes" (*Le droit international codifié et sa sanction juridique* (1911, para. 854, p. 422), these two aspects being inseparable. This point is well established, for example, by Professor Verzijl, who shows that commercial treaties have usually contained political provisions, just as peace treaties and treaties of alliance have always contained provisions of a commercial nature. (*International Law in Historical Perspective*, 1973, Vol. VI, pp. 425 ff.)

390. It follows from the foregoing considerations that the Treaty concluded between the Parties on 21 January 1956 covers not only commercial matters, but also matters of friendship in a much larger sense. Only this interpretation can give full effect to the provisions of the Treaty, which must be applied in this spirit.

B. The Treaty of 1956 Must Be Interpreted in Conformance with "The General Rule of Interpretation" Established in International Law

391. Contrary to both the letter and the spirit of the FCN Treaty, the presentation given by the United States is completely incompatible with the general rule of interpretation codified in Article 31 of the Vienna Convention on the Law of Treaties of 23 May 1969, which provides:

> "1. A Treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose."

(See also Article 1 of the Resolution adopted by the Institut de droit international on 19 April 1956, *Annuaire*, 1959, p. 365.) As the Court has repeatedly stated:

> "The Court considers it necessary to say that the first duty of a Tribunal which is called upon to interpret and apply the provisions of a treaty, is to endeavour to give effect to them in their natural and ordinary meaning in the context in which they occur. If the relevant words in their natural and ordinary meaning make sense in their context, that is an end of the matter." (*Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950*, p. 8; see also, *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase, Advisory Opinion, I.C.J. Reports 1950*, p. 221, at p. 227; *Temple of Preah Vihear, Preliminary Objections, Judgment, I.C.J. Reports 1961*, p. 32.)

392. It is not possible to adhere simultaneously to this cardinal rule of interpretation of treaties and to see in the Treaty of 1956 a simple commercial accord. Such a position fails to take into account the words actually used, the context in which these words occur, and those Treaty provisions which cannot be considered wholly commercial; it deprives the Treaty of its ultimate purpose the reinforcement of friendly ties between the peoples of the contracting States.

393. In the previous phase of the present case, the United States, instead of advancing a global construction of the Treaty, isolated a small number of provisions on which it based the following conclusion:

> "There is simply no relationship between these wholly commercial provisions and Nicaragua's allegations in its Application . . ." (Counter-Memorial of the United States, **II**, p. 53.)

This method is not in accordance with Article 31 of the Vienna Convention, cited above, which requires a reading of the terms of a treaty "in their context". As stated in paragraph 2 of this Article:

> "The context, for the purpose of the interpretation of a treaty, shall comprise, in addition to the text, including its preamble and annexes the collateral instruments which, where necessary, may have been concluded between the Parties."

See also, Article 1, cited above, of the Resolution at the Grenada Session of the Institut de droit international, which invokes the "context as a whole" of the treaty. (*Competence of the ILO* case (Advisory Opinion), *Series B, Nos. 2 and 3*, p. 23; and *Diversion of Water from the Meuse (Netherlands* v. *Belgium), Judgment, 1937, Series A/B, No. 70*, p. 21.)

394. In this regard, the provisions of the Preamble assume a particular importance. Moreover, it is very significant in this regard that the International Law Commission, endorsing the opinion of its special Rapporteur, Sir Humphrey Waldock (Third Report on the Law of Treaties, *Yearbook of the International Law Commission*, 1964, Vol. II, p. 5, at 57), has stated categorically: "That the preamble forms part of a treaty for purposes of interpretation is too well settled to require comment." (Report of the International Law Commission, *ibid.*, p. 173, at 203.) This position was approved by all the members of the Commission who spoke on this point, in particular Judge Ruda, Rosenne, and former President Lachs, who stated that:

> "The preamble of a treaty was extremely important for the interpretation of a treaty as a whole. In a great many treaties, the object and purpose were indicated solely in the preamble, and the preamble was consequently essen-

> tial for a purpose of a wider interpretation of a treaty." (Summary of the Sixteenth Session, 11 May to 24 July 1964, *ibid.*, Vol. I, p. 285. See also, e.g., Charles De Visscher, *Problemes d'interprétation judiciaire en droit international public* (1963), p. 61; Lord McNair, *The Law of Treaties* (1961), p. 486; Charles Rousseau, *Droit international public*, Vol. I, *Introduction et sources*, 1971, p. 87.)

395. It is not disputed that the terms of a preamble do not always have an obligatory juridical value in and of themselves. (See *South West Africa* cases, *Second Phase, I.C.J. Reports 1966*, p. 34.) However, the situation is different when the terms of the preamble confirm and illustrate the provisions in the body of the treaty — as is the case with the FCN Treaty. Further, when negotiated at the same time as the body of the text, the preamble constitutes the authentic expression of the scope, the goal and the purpose which the parties intended to confer on their accord.

396. International jurisprudence is well established on this point and the Court frequently relies on the preamble to determine the sense and the scope of conventional undertakings of the parties. (See, e.g., *Competence of the ILO, P.C.I.J., Series B, Nos. 2 and 3*, p. 23; *Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7*, p. 14; *Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50*, p. 375; *Diversion of Water from the Meuse, Judgment, 1937, P.C.I.J., Series A/B, No. 70*, p. 21; *Asylum, Judgment, I.C.J. Reports 1950*, p. 282; *Application of the Convention of 1902 Governing the Guardianship of Infants, Judgment, I.C.J. Reports 1958*, p. 67.)

397. In the same spirit, it is interesting to note that United States courts also rely on the preambles of treaties to determine their scope. (See examples cited by Hackworth, *Digest of International Law*, 1944, Vol. V, p. 245, citing *Todok v. Union State Bank of Harvard, Nebraska*, 281 US 448, 445 (1930); *Cook v. United States*, 288 US 102, 112 (1933).)

398. The words "peace", "friendship", "equitable treatment", "friendly relations", "the most constant protection and security", which, among others, occur in many articles of the Treaty (Preamble, Arts. I; II, para. 3; III, para. 1; and VI, para. 1) have an "ordinary" sense and must be given the full effect which the customary definition implies.

399. To brush aside the ordinary and natural meaning of these words in currently accepted usage, specific and compelling reasons are required. (See *Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948*, p. 57, at p. 63; see also, *Interpretation of the Convention of 1919* concerning Employment of Women during the Night, Advisory Opinion, *1932, P.C.I.J., Series A/B, No. 50*, p. 365, at p. 373.) And it is the party who contests such a standard interpretation who bears the burden of showing that this meaning should be disregarded. (See Decision of the British-American Claims Commission (President, H. Fromageot), *in the Matter of the David J. Adams Case*, 1921, 16 *American Journal of International Law* (1922), p. 319; on all these points, see Lord McNair, *The Law of Treaties*, 1961, p. 369 and Charles Rousseau, *Droit international public*, Vol. I, *Introduction et sources*, 1971, pp. 281 ff.) No such showing has been made here.

400. A reading of the FCN Treaty of 1956 shows without doubt that the United States and Nicaragua intended that this Treaty encompass a much larger scope than the regulation of their commercial relations. It follows that there is no reason to deprive the noncommercial provisions of their juridical effect. To

reason to the contrary would contradict the clearly expressed intention of the Parties and generally accepted principles of international law.

C. *United States Practice Recognizes the Legal Significance of the Non-Commercial Aspects of FCN Treaties*

401. Experience has confirmed the "significant" character of the non-commercial provisions of FCN treaties, and has demonstrated the understanding of States, and particularly the United States, of the effective and obligatory character of these provisions and of the general obligations which they impose on the contracting States to conduct "friendly" relations.

402. Inclusion of the word "friendship" in the title of a treaty cannot be regarded as purely nominal in light of the fact that certain treaties of commerce and navigation do not include "friendship". The practice of the United States, moreover, attests that it concludes treaties of friendship with full awareness of the potential juridical consequences.

403. It is neither "by inadvertence" nor "by chance" that, since 1966, the United States has no longer concluded FCN Treaties; it has decided, since 1982, to promote the replacement of such treaties with "bilateral conventions on the encouragement of investments". The model for these conventions, adopted in May 1982 and modified in January 1983, is distinguishable from the "FCN model" precisely by virtue of the fact that the new conventions are entirely and exclusively devoted to the regulation of economic questions. Their preambles do not mention "the reinforcement of friendly ties" between the contracting States. Nor do they contain general provisions concerning the protections of persons. (Ann. K, Attachment 3.)

404. That such a change has juridical consequences was suggested by the Supreme Court of the State of Washington in 1934. In *Lukich* v. *Dept. of Labor and Industries*, 29 P. 2d 388 (1934) (Ann. K, Attachment 2), the Court declined to extend equal treatment to a nonresident on a worker's compensation claim, since her claim for such treatment was founded on a bilateral "Convention of Commerce and Navigation" and not on a treaty of "Friendship, Commerce and Consular Rights."[14]

405. The United States confirmed its position that the general provisions contained in FCN Treaties have an "operational" character in its presentation to the International Court of Justice in the case concerning *United States Diplomatic and Consular Staff in Tehran*[15]. Mr. Civiletti, Counsel for the Government of the United States of America, stated in the hearing held on 10 December 1979:

> "Finally, the United States relies in this case upon a bilateral treaty, the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States and Iran. This Treaty is in a sense even broader than the three multilateral conventions to which I have previously referred [the

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[14] The import of this decision is noted by Robert Wilson, one of the foremost American specialists on questions relating to FCN treaties: "A decision by the Supreme Court of the State of Washington in 1934 brought out that omission of the word 'friendship' may have important legal consequences." *US Commercial Treaties and International Law*, 1960, pp. 2-3.

[15] Problems relating to FCN treaties had been submitted to this Court on two prior occasions: in the case of the *Temple of Preah Vihear* and in the case concerning *Rights of Nationals of the United States of America in Morocco (France v. United States), Judgment, I.C.J. Reports 1952*, p. 176.

> Vienna Conventions on diplomatic relations (1961) and consular relations (1963) and the New York Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons]. Under Article II, paragraph 4, of the Treaty of Amity, each Party has a legal obligation to ensure that within its territory, the nationals of the other Party shall receive 'the most constant protection and security'." (*United States Diplomatic and Consular Staff in Tehran*, Memorial of the United States, p. 24 (January 1980).)

406. In its Memorial, the United States invoked the same provision and asserted that it gave to the citizens of both parties a "broad guarantee of security and protection". (*Ibid.*, p. 179.) The United States argued:

> "The effect of the Treaty is to translate these generally and extensively applied principles of international law into a concrete and explicit set of bilateral obligations." (*Ibid.*, p. 180.)

Thus, the United States:

relied on a provision drafted in the same manner as that in Article III of the Treaty of 21 January 1956;
interpreted this provision in its most general sense; and
used this argument not only on behalf of the rights of its consular personnel — the Convention of 1963 was amply sufficient for this purpose — but also on behalf of two of its citizens who could not benefit from diplomatic or consular status.

The Court fully acceded to this request:

> "So far as concerns the two private United States nationals seized as hostages by the invading militants, that . . . entailed, albeit incidentally, a breach of its obligations under Article II, paragraph 4, of the 1955 Treaty of Amity, Economic Relations and Consular Rights which, in addition to the obligations of Iran existing under general international law, requires the Parties to ensure 'the most constant protection and security' to each other's nationals in their respective territories." (*I.C.J. Reports 1980*, p. 32.)

407. Just prior to this passage, the Court clearly specified the scope it attributed to such a Treaty:

> "The very purpose of a Treaty of Amity, and indeed of a Treaty of Establishment, is to promote friendly relations between the two countries concerned, and between their two peoples, more specially by mutual undertakings to ensure the protection and security of their nationals in each other's territories. It is precisely when difficulties arise that the Treaty assumes its greatest importance. . . ." (*Ibid.*, p. 28.)

What was true in 1980 remains true in 1985. The Treaty of 21 January 1956, is thus without doubt a treaty of friendship which imposes on the Parties the obligation to conduct amicable relations with each other.

Section III. The United States Has Violated and Continues to Violate Numerous Provisions of the Treaty of Friendship, Commerce and Navigation of 1956

408. That "every Treaty in force is binding upon the parties to it and must be performed by them in good faith" (Vienna Convention on the Law of Treaties,

23 May 1969, Article XXVI (*pacta sunt servanda*), is a fundamental principle of international law, so well established that it needs no comment. However, it is necessary to emphasize that a State party to a treaty is bound not only to respect the letter of the provisions of such treaty, but also to refrain from any act incompatible with the object or the purpose of the Treaty[16].

409. The actions of the United States at issue in this proceeding are both incompatible with the object and purpose of the FCN Treaty and directly violate a number of its specific provisions, particularly those relating to freedom of communication and equitable treatment of Nicaraguan citizens. These violations cannot be justified.

A. The United States Has Deprived and Continues to Deprive the 1956 Treaty of Its Object and Its Purpose

410. Nicaragua has established in the preceding sections that the FCN Treaty of 21 January 1956 must be understood in its totality and in light of the full range of intentions expressed by the parties. So understood, the Treaty imposes a legal obligation of "friendship" between the parties. Whatever the exact dimensions of the legal norm of "friendship", there can be no doubt of a United States violation in this case. By the use of armed force, by the support given to groups of armed mercenaries, by the continuing violation of the territorial sovereignty of Nicaragua, by attempting to paralyse all economic activity in Nicaragua, to hinder (and at times to prevent) foreign trade, and to destroy the productive capacity of the country all described more fully in the Statement of Facts and preceding chapters, the United States has violated the broad purpose of the 1956 Treaty and deprived it of all substance.

411. Furthermore, pursuant to paragraphs 2 and 3 of Article X of the Treaty, the parties assumed an obligation to cooperate in scientific and technical matters in order to ameliorate standards of living in both countries. This end is completely incompatible with the facts that have been developed in the evidence before the Court.

412. Not only has the United States effectively ceased all cooperation with regard to the social and economic development of Nicaragua, but it has adopted as a specific policy objective the destruction of the economic potential of the country. The most salient facts in this regard are:

The United States suddenly halted its economic aid to Nicaragua on 1 April 1981. This aid had been $118 million during the previous 18 months. (*NYT* 4/2/81; see also United States Counter-Memorial, p. 86.)

In May 1983, the United States suspended 90 per cent of Nicaragua's sugar quota. (United States Presidential Proclamation 5104, Ann. K, Attachment 4; *NYT* 7/3/83.) This abrupt cut-off was a breach of the 1977 GATT International Sugar Agreement — to which both States are parties — and of Presidential

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[16] The International Law Commission at one time considered including an express provision to this effect in its draft code (*Yearbook of the International Law Commission*, 1964, Vol. I, pp. 25, 30 and 171 ff., Third report of Sir Humphrey Waldock) (*id.*, Vol. II, p. 3) but finally decided against it, not because its members had any doubt as to the existence of this rule, but because it seemed implicitly but necessarily included in the principle *pacta sunt servanda*. (*Ibid.*, Vol. I, p. 245 and Vol. II, p. 185.) See also, separate opinion of Sir Hersch Lauterpacht in the case concerning the *Admissibility of Hearings of Petitioners by the Committee on South West Africa, Advisory Opinion, I.C.J. Reports 1956*, p. 25 at 48.

Proclamation 4941 of 5 May 1982 (Ann. K, Attachment 4). (A GATT panel ruled on 2 March 1984 that this decision was a violation of the international obligations of the United States under the Agreement.) (See United States Imports of Sugar from Nicaragua: Report of the Panel, General Agreement on Tariffs and Trade, 2 March 1984; "US Economic Measures Against Central America", Central American Historical Institute *Update*, Vol. 4, No. 9, 1 April 1985, Ann. K, Attachment 5.)

The United States has opposed the provision of loans and credits to Nicaragua in international lending and development institutions. In March 1985, it prevented the grant of a loan of $150 million to Nicaragua from the Inter-American Development Bank. (*WP* 3/8/85; see Letter of Secretary of State George P. Shultz to the Honorable Antonio Ortiz Mena, President, Inter-American Development Bank, Ann. C, II-9.)

The armed activities which the United States is directing in and against Nicaragua have consistently aimed at economic objectives; moreover, United States plans to destabilize the Nicaraguan Government, and the training given to the mercenary forces, clearly express these objectives. (See Carrion Affidavit, Ann. A, Exhibit A.)

413. These acts not only render the realization of the objectives fixed in Article X of the 1956 Treaty illusory, they in fact seek to accomplish precisely the opposite objective: not the economic development of Nicaragua and the amelioration of the standard of living of its citizens, but rather, its economic strangulation. This purpose cannot, under any interpretation of "friendship", be found to be compatible with the general structure of relations established between the two countries by the 1956 Treaty.

B. The United States Has Violated and Continues to Violate Its Obligations under the 1956 Treaty to Accord Equitable Treatment of the Citizens of Nicaragua

Article I of the 1956 Treaty provides:

> "Each Party shall at all times accord equitable treatment to the persons, property, enterprises and other interests of nationals and companies of the other parties."

Placed at the beginning of the Treaty, this article is evidently of primary importance.

414. Unlike Articles III, paragraph 1, and VI, paragraph 1, by which each Party undertakes to protect the persons and property of the citizens of the other party residing in the first party's territory, the scope of Article I is not subject to a territorial limitation. Article I constitutes a general undertaking on the part of each of the two States with regard to the persons, property, enterprises and other interests of the citizens of the other party wherever these persons or interests may be found.

415. It would not be useful here to enter into an extended discussion on the exact meaning of the expression "equitable treatment". Whatever meaning is accorded to this expression, it necessarily precludes the Government of the United States from engaging in the activities detailed in the Statement of Facts, that is: from killing, wounding, or kidnapping citizens of Nicaragua, and, more generally, from threatening Nicaraguan citizens in the integrity of their persons or the safety of their property.

C. *The United States Has Violated and Continues to Violate the Provisions of the 1956 Treaty relating to the Freedom of Communication*

416. Articles XIX and XX of the FCN Treaty provide, in general and absolute terms, for the freedom of communications between the two States:

Article XIX, paragraph 1:

> "Between the territories of the two Parties, there shall be freedom of commerce and navigation."

Article XX:

> "There shall be freedom of transit through the territory of each Party by the routes most convenient for international transit:
>
> (*a*) for nationals of the other Parties, together with their baggage;
> (*b*) for other persons, together with their baggage, en route to or from the territories of such other Parties; and
> (*c*) for products of any origin en route to or from the territories of such other Party."

417. The Court in its Judgment of 26 November 1984 noted that freedom of navigation constitutes an obligatory principle "as part of customary international law" (*I.C.J. Reports 1984*, p. 424). Nicaragua will show in the following chapter that the United States has indisputably violated this customary rule. (See Chap. VII, Sec. 5.) But this customary law principle has been both reaffirmed and expanded in the 1956 Treaty: Article XIX, paragraph 1, of the Treaty includes, in an absolutely general manner, freedom of navigation in the ports of the other Party, not just on the high seas.

418. The Permanent Court of International Justice, in two notable decisions, defined with great precision the freedoms of navigation and commerce, indicating that they could not be disassociated from one another:

> "The concept of navigation includes, primarily and essentially, the concept of the movement of vessels with a view to the accomplishment of voyages. . . . Freedom of navigation is incomplete unless shipping can actually reach the ports under the same conditions. . . .
>
> The second idea which the concept of navigation comprises is that of contact with the economic organization and with the means of communication of the country reached by navigation. Ports are precisely the means of establishing such contact." (*Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14*, pp. 64-66.)

> "According to the concept universally accepted, the freedom of navigation . . . comprises freedom of movement for vessels, freedom to enter ports, and to make use of plants and docks, to load and unload goods and to transport goods and passengers.
>
> From this point of view, freedom of navigation implies, as far as the business side of maritime or fluvial transport is concerned, freedom of commerce also." (*Oscar Chinn, Judgment 1934, P.C.I.J., Series A/B, No. 63*, p. 84.)

419. The Permanent Court further defined the freedom of commerce as follows:

> "The right, in principle unrestricted, to engage in any commercial activity, whether it is concerned with trading properly so-called, that is the purchase

> and sale of goods, or whether it be concerned with industry, and in particular the transport business; or, finally, whether it is carried on inside the country or by the exchange of imports and exports with other countries." (*Ibid.*; see also, *Corfu Channel, Merits, I.C.J. Reports 1949*, p. 98 (dissenting opinion by Judge Azevedo).)

420. This conception finds support in the doctrine (see Jules Basdevant, ed., *Dictionnaire de la terminologie du droit international*, p. 126), in the jurisprudence of international tribunals, and in the practice of the United States. Thus, for example, in its interpretation of the Treaty of Commerce and Navigation concluded on 21 February 1911 between the United States and Japan, the Supreme Court of the United States clearly accepted this proposition:

> "While in a narrow and unrestricted sense the terms 'commerce' or 'commercial', and 'trade' may be limited to the purchase and sale or exchange of goods and commodities, they may connote, as well, other occupations and other recognized forms of business enterprise which do not necessarily involve trading in merchandise. . . . And although commerce includes traffic in this narrower sense, for more than a century it has been judicially recognized that in a broad sense it embraces every phase of commercial and business activity and intercourse." (*Jordan, Secretary of State of California* v. *Tashiro*, 278 US 123, 127-128 (1928).)

421. These principles still hold. They have not been respected by the United States. There is no doubt that the mining of Nicaragua's ports by the United States violated the freedom of navigation and, in consequence, the freedom of commerce, as well as the freedom of transit.

422. The mining of the ports of Corinto, Puerto Sandino and El Bluff — the principal Nicaraguan ports which together handle almost all of Nicaragua's trade — decided on, organized and effected by the CIA caused significant damage to ships entering and leaving these three ports. (Statement of Facts, paras. 96-98.) Several third-State merchant ships of various nationalities were seriously damaged. (*Ibid.*, para. 98.) As a result, certain companies cancelled scheduled deliveries (notably of petroleum) and pickups (of cotton in particular). (*Ibid.*) Similarly, numerous Nicaraguan merchant ships and fishing boats were damaged or destroyed while traversing the mined waters or while engaging in minesweeping operations. (*Ibid.*)

423. Since the United States has intensified its military and paramilitary activities in Nicaragua, marine insurance companies have significantly increased the price of insurance in order to cover the risk of war for transports to or from Nicaragua. Even before the mining, Lloyds of London, whose rates provide a benchmark for other insurers, had increased its "War Risk Rates" applicable to maritime operations with Nicaragua fivefold. (See *Lloyds List and Shipping Gazette and Related Documents*, Ann. K, Attachment 6.) As a result, Nicaragua is now classified as a maximum risk for shipping operators, at the same level as, for example, Iran. After the mining, French insurance rates for operations with Nicaragua — which are generally set independently from the rates in other Western countries — increased dramatically first on 8 March 1984, and then again on 13 April 1984. (Ann. K, Attachment 7.)

424. These facts constitute an independent violation of the Treaty, in light of the provisions of Article XVII, paragraph 3:

> "Neither Party shall impose any measure of a discriminatory nature that hinders or prevents the importer or exporter of products of either country

> from obtaining marine insurance on such products of companies of either Party."

The military and paramilitary activities of the United States in and against Nicaragua have had the direct effect of preventing and rendering more difficult and costly the obtaining of marine insurance for buyers of Nicaraguan products or for Nicaraguan importers.

425. There can be no doubt that the mining of the Nicaraguan ports by the United States constitutes a manifest violation of the freedom of navigation and freedom of commerce guaranteed by Article XIX, 1, of the 1956 Treaty. And, although the mining of the ports and its consequences constitute one of the more flagrant violations of the 1956 Treaty, the mining is only part of the ensemble of military and paramilitary activities conducted by the United States in and against Nicaragua, all of which are violative of the 1956 Treaty. Since the word "commerce" in the 1956 Treaty must be understood in its broadest sense, all of the activities by which the United States has deliberately inflicted on Nicaragua physical damage and economic losses of all types, violate the principle of freedom of commerce which the Treaty establishes in very general terms.

D. The Violations of the 1956 Treaty by the United States Cannot Be Justified under Any Circumstances

426. There can be no doubt that the United States has violated the FCN Treaty of 21 January 1956. The responsibility of the United States for these violations can neither be attenuated nor excused on the basis of any considerations which under other circumstances might otherwise justify its actions.

427. Possible justifying circumstances fall into two categories. First, there are the exonerating causes traditionally recognized under customary international law and enumerated in Chapter V of the draft articles of the ILC concerning State responsibility. The United States invoked one of these causes in its Counter-Memorial during the first phase of the present case: legitimate self-defense. (Counter-Memorial of the United States, pp. 219 ff.) Nicaragua has established elsewhere that there is no basis to any such assertion. (See Chap. III, Sec. III; Chap. IV, Sec. III and Sec. VII.)

428. Second, within the Treaty itself, the two Parties reserve the right to implement certain measures that might otherwise violate the provisions of the Treaty. Article XXI, paragraph 1, provides:

> "1. The present Treaty shall not preclude the application of measures:
>
> . . . .
>
> (*c*) regulating the production of or traffic in arms, ammunition, and implements of war or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;
> (*d*) necessary to fulfill the obligations of a Party with respect to the maintenance or restoration of international peace and security, or necessary to protect its essential security interest; . . ."

429. In its Counter-Memorial the United States invoked this provision as follows:

> "Any possible doubt as to the applicability of the FCN Treaty to Nicaragua's claim is dispelled by Article XXI of the Treaty, paragraph (1) (*d*). Article XXI (1) (*c*), moreover, excludes from the FCN Treaty's coverage measures relating to the traffic in arms or other materials carried on

directly or indirectly for the purpose of supplying a military establishment." (Para. 179.)

430. One party to a treaty, however, cannot absolve itself of all responsibility for violations of the provisions of the treaty by simply invoking an exculpatory provision. It is for the Court and not for the Parties to determine the validity of such assertions. The Court "is entirely free to estimate the value of statements made by the Parties". (*Certain German Interests in Polish Upper Silesia (Germany v. Poland)*, Merits, *Judgment No. 7, 1926, P.C.I.J., Series A, No. 7*, p. 73)[1].

431. The circumstances of the present case clearly do not fulfill the conditions established in subsection *(c)* or subsection *(d)* of Article XXI, paragraph (1), of the 1956 Treaty. With regard to "traffic in arms, ammunition and implements of war or traffic in other materials", such traffic must be for the purpose of supplying a military establishment, which the United States cannot allege to be the case here. *A fortiori*, the training, financing and directing of guerrilla groups cannot be brought within the compass of this provision.

432. Similarly, Article XXI (1) *(d)* cannot be invoked to justify the activities of the United States. This provision refers implicitly to the provisions in the United Nations Charter relating to the maintenance of international peace and security. Nicaragua has shown in Chapter III of the present Memorial that the military and paramilitary activities conducted by the United States in and against Nicaragua are completely incompatible with these provisions of the Charter.

* * *

433. It is well-established in international law that a State's violations and its conventional obligations constitute international delicts for which such State is responsible.

> "It is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form. Reparation therefore is the indispensable complement of a failure to apply a convention and there is no necessity for this to be stated in the convention itself." (*Factory at Chorzów (Germany v. Poland), Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9*, p. 21.)

As Nicaragua has shown above, the United States has violated numerous provisions of the FCN Treaty of 21 January 1956, violations which constitute breaches of international law and oblige the United States to make compensation. In addition, these violations, given their simultaneity and conjunction, constitute an independent international delict and clearly attest to the fact that the United States has completely deprived the Treaty of its object and its purpose, which, in itself, is a supplementary heading of responsibility.

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[1] In its Judgment of 26 November 1984, the Court followed this principle with regard to the "Vandenberg Reservation": "Certainly the determination of the State 'affected' could not be left to the parties but must be made by the Court." (Para. 75.) See also the individual opinion of President Nagendra Singh.

PART III

THE CUSTOMARY LAW

CHAPTER VII

BREACHES OF OBLIGATIONS ARISING UNDER CUSTOMARY OR GENERAL INTERNATIONAL LAW FOR WHICH THE UNITED STATES BEARS RESPONSIBILITY

Section I. Purpose of the Chapter

434. The content of the present chapter flows naturally, like that of the previous chapter, from the substance of Nicaragua's Application of 9 April 1984. The claims of Nicaragua are to a very considerable extent based upon well-recognized principles of customary or general international law. The pertinent claims and causes of action will be presented systematically in the order in which they appeared in the Application, together with the appropriate indications of the evidence supporting each cause of action. In a case which rests upon the concept of State responsibility and involves serious breaches of international law, the identification of the precise grounds on which the claim is based becomes a matter of considerable importance.

435. As the Court recognized in the Judgment in the Jurisdiction phase of the present proceedings, the principles of customary and general international law invoked in the Application continue to be operative autonomously in spite of the fact that they have been codified or incorporated in various multilateral conventions. (*I.C.J. Reports 1984*, pp. 424-425, para. 73; and see Chap. V, *supra*.) In this context is it necessary to point out that in certain cases the rule of customary law will not necessarily be identical in content and mode of application to the conventional rule.

436. The legal bases of the claim of Nicaragua relating to customary and general international law will now be examined one by one.

Section II. Violations of the Sovereignty of Nicaragua

437. The evidence, including the Affidavit of Commander Carrión dated 21 April 1985, reveals a substantial number of violations of the sovereignty of Nicaragua by United States forces and other forces under the control of the United States. (Ann. A, Exhibit A.) The violations take various forms but all involve trespass into the territory, territorial sea or airspace, of the Republic of Nicaragua.

438. The violations of Nicaragua's sovereignty include the following forms:

(a) Armed attacks against the territory of Nicaragua by land, sea and air.
(b) Incursions into Nicaragua's territorial sea.
(c) Trespass by military aircraft into Nicaragua's airspace.

439. Particular episodes of violence and sabotage include an attack by two Cessna aircraft on Managua Airport on 8 September 1983, and a combined sea and air attack, which destroyed five oil storage tanks in the Port of Corinto, on 10 October 1983. (Statement of Facts, paras. 84, 87.) As detailed in the Statement of Facts, the pattern of armed attacks by guerrillas aimed at the population of the countryside, the administration, and economic targets, is well-attested by the documentary evidence. Responsibility for these military and paramilitary activities is accepted by the United States. (See Chaps. I and II, *supra*.)

440. The evidence of substantial and persistent United States involvement in and legal responsibility for the numerous violations of sovereignty has been discussed at length in Chapter II. It includes the following:

(*a*) Legislation of Congress. (Ann. D.)
(*b*) Congressional reports and, in particular, the Report of the Permanent Select Committee on Intelligence of the House of Representatives, of 13 May 1983. (Ann. E, Attachment 1.)
(*c*) Express admissions made by the President and other senior officials appearing on the public record. (Ann. C.)
(*d*) Admissions made by the leaders of the mercenary forces. (Statement of Facts, paras. 53, 69, 81.)
(*e*) Numerous press reports. (Ann. F.)
(*f*) The evidence of a system, a pattern of activities, indicating a general policy on the part of the United States in respect of the campaign of "covert action" directed against Nicaragua.

441. Many of the violations of sovereignty covered by Nicaragua's claim, and probably the majority of instances, involve the use of armed force. However, the application of the concept of a violation of sovereignty, for example, to cases of aerial trespass, is legally justified whether or not the particular violation can be said to involve a use of force or resort to armed force. Thus although the claim based upon violations of sovereignty overlaps with other causes of action relating to the use of force, it does not simply coincide with those other causes of action and consequently plays a significant independent role.

442. There can be no doubt whatsoever but that the violation of the sovereignty of a State constitutes a cause of action recognized by customary and general international law. In a recent work on State responsibility the "violation of the sovereignty of a State by specified acts" is described as one of the "fundamental causes of action". (See Brownlie, *System of the Law of Nations: State Responsibility*, Part I, 1983, pp. 84-85.)

443. In the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, p. 4), the Court characterized the action of the British Navy on 12 and 13 November 1946 as "a violation of Albanian sovereignty". (*I.C.J. Reports 1949*, pp. 32-35; and see the *Dispositif*, p. 36.) With regard to this operation, which involved the invasion of Albanian territorial waters by a large force of naval vessels, the Court stated that: "Between independent States, respect for territorial sovereignty is an essential foundation of international relations." (*Ibid.*, p. 35.) And in the Judgment concerning the Jurisdiction phase of the present case, the Court noted that "respect for the independence and territorial integrity of States" formed a part of customary international law. (Judgment, para. 73.)

444. The principle of responsibility for violations of sovereignty is generally accepted in the practice of States. See, for example, the Australian Application in the *Nuclear Tests* cases (*I.C.J. Pleadings, Nuclear Tests*, Vol. I, p. 14, para. 49; and pp. 335-336, paras. 451-455); Canadian claim against the USSR for damage caused by the Cosmos 954 satellite, Canadian note of 23 January 1979 and

Statement of Claim (18 *International Legal Materials* (1979), p. 899). The Canadian Statement of Claim includes the following passage:

> "The intrusion of the Cosmos 954 satellite into Canada's air space and the deposit on Canadian territory of hazardous radioactive debris from the satellite constitutes a violation of Canada's sovereignty. This violation is established by the mere fact of the trespass of the satellite, the harmful consequences of this intrusion, being the damage caused to Canada by the presence of hazardous radioactive debris and the interference with the sovereign right of Canada to determine the acts that will be performed on its territory. International precedents recognise that a violation of sovereignty gives rise to an obligation to pay compensation." (*Ibid.*, p. 907, para. 21.)

445. The absence of lawful justification for the activities constituting violations of Nicaragua's sovereignty will be shown in Section VII of the present Chapter.

Section III. Breaches of the Obligation Not to Use Force or the Threat of Force

446. There is an extensive pattern of evidence of breaches on the part of the United States of the customary law obligation not to resort to the use or threat of force against the political independence or territorial integrity of other States. It is cogent in detail and forms overall evidence of systematic activity. Much of the evidence is summarized and presented in authoritative form in the *Report of the Permanent Select Committee on Intelligence of the House of Representatives*, 13 May 1983. (Ann. E, Attachment 1.) The use of force by mercenaries operating under the control of the United States is chronicled in this Report. Reference is made to the "hostilities" (*ibid.*, p. 245, *infra*), and to "direct or indirect support of military or paramilitary activities in Nicaragua" (*ibid.*). Since the Report is concerned with an amendment to the Intelligence Authorization Act for the Fiscal Year 1983, it necessarily describes the purposes of *existing* funding and policies as the background to the attempt to place constraints upon "United States support for military or paramilitary operations in Nicaragua". (See *ibid.*, headnote.)

447. The use or threat of force directed against the political independence and territorial integrity of Nicaragua has taken the following forms:

(*a*) Armed attacks against the territory of Nicaragua by land, sea and air.
(*b*) Incursions by military and paramilitary forces into Nicaragua's territorial sea.
(*c*) Trespass by military aircraft into Nicaragua's airspace.
(*d*) A general and sustained policy of force, publicly expounded, intended to intimidate the lawful Government of Nicaragua into accepting the political demands of the United States Government, and resulting in substantial infringements of the political independence of Nicaragua.
(*e*) The setting of mines in Nicaraguan harbors.

448. The facts concerning the episodes of violence directed against Nicaragua are set forth in the Affidavit of Commander Carrión dated 17 April 1985 (Ann. A), and also, with references to the supporting evidence, in the Statement of Facts, *supra*. The evidence specifically related to the mining of ports will be indicated in Section V below.

449. The evidence of substantial and persistent United States involvement in and legal responsibility for the numerous breaches in the legal obligation not to resort to the use or threat of force includes the following:

(*a*) Legislation of Congress. (Ann. D.)

(*b*) Congressional Reports and, in particular, the *Report of the Permanent Select Committee on Intelligence of the House of Representatives*, of 13 May 1983 (Ann. E) as well as statements of individual members of Congressional Intelligence Committees. (Statement of Facts, paras. 70-75, 107, 110, 116.)

(*c*) Express admissions made by the President and other senior officials appearing on the public record. (Ann. C, Attachment I-1 to I-21 and II-1 to II-11.)

(*d*) Admissions made by the leaders of the mercenaries. (Statement of Facts, paras. 53, 69, 81, 128.)

(*e*) Numerous press reports. (Ann. F.)

(*f*) The evidence of a system, a pattern of activities, indicating a general policy on the part of the United States, in respect of the campaign of "covert action" directed against Nicaragua. (See Chap. II, *supra*.)

450. In the context of the use of force the public admissions made by mercenary leaders are of particular relevance. The following leaders have made statements to the press describing the involvement of the United States, and more particularly the CIA, in leadership selection and in the determination of the overall strategy and tactics of the mercenary attacks:

(*a*) Edgar Chamorro. (See, e.g., *WP* 11/27/84; *WP* 9/29/83.)

(*b*) Enrique Bermudez. (See, e.g., *International Herald Tribune*, 2/20/85; *WP* 2/28/85.)

451. The statements made by such individuals, the public statements of the President, and the various Congressional documents, are replete with the vocabulary of military action and coercion. The following examples are typical: President Reagan's 21 February 1985 statement of a purpose to change "the present structure" of the Nicaraguan Government, and to make them "say 'Uncle'" (Ann. C, Attachment II-14); his October 1983 defense of the use of "covert actions" in response to a question about "recent rebel attacks on a Nicaraguan oil depot" (Ann. C, Attachment I-2); and the frequent references in Presidential statements to the mercenary forces supported by the United States as "freedom fighters" (see, e.g., Ann. C, Attachments I-12, I-15, I-17, I-21). In addition, the *Report of the Permanent Select Committee on Intelligence of the House of Representatives*, 13 May 1983 (Ann. E, Attachment 1) and in other Congressional statements contained in Annex E, include such terms as "insurgent activity" and "hostilities".

452. Of high evidential significance is the belated appearance since April 1984 of United States claims to have acted by virtue of the right of collective self-defense recognized in Article 51 of the United Nations Charter. Such claims — which are not justified on the facts and which the United States is unwilling to substantiate by offering evidence — necessarily involve an admission of substantial United States direction and control of the forces engaged in the military operations against Nicaragua. The relevant sources are set forth in Chapter I and Chapter II of this Memorial.

453. There is very substantial authority for the view that the principles contained in Article 2 (4) of the United Nations Charter form part of general international law. This position is taken by the United States Counter-Memorial on Jurisdiction and Admissibility, paragraphs 313-319. There is good reason to believe that Article 2 (4) was declaratory of the position in general international law in 1945. Indeed, this position was relied upon by the Allied prosecutors in *The Trial of Major German War Criminals* by the International Military Tribunal, and the Judgment of the Tribunal refers to the legal effect of the General

Treaty for the Renunciation of War of 1928. (See *Annual Digest and Reports of Public International Law Cases*, Vol. 13, p. 203, at pp. 208-209; United Kingdom, HMSO, Misc. No. 12 (1946), Cmd. 6964, pp. 38-41 (complete text).)

454. The same view is expressed by Lord McNair, a former President of the Court, in his work *The Law of Treaties*, 1961, pages 209-210, 216-217 and 576-577. The key passage is as follows:

> "This treaty, the Charter, now [June 1961] accepted by no less than ninety-nine States, is the nearest approach to legislation by the whole community of States that has yet been realized. Our submission is that those of its provisions which purport to create legal rights and duties possess a constitutive or semi-legislative character, with the result that any member States cannot contract out of them or derogate from them by treaties made between them and that any treaty whereby they attempted to produce this effect would be void. Many of these rights and duties are binding upon member States not only as between themselves but also as between each of them and the United Nations, for instance, the two paragraphs of Article 2 quoted above: paragraph 4 certainly and paragraph 3 probably are binding upon members, whether the other State which is the victim of force, threatened or used (paragraph 4), or which is involved in the dispute, is a member of the United Nations or not. It is, indeed, very probable, having regard to the provisions of the General Treaty for the Renunciation of War of 1928 and to the development of the rules of customary law referred to above that an international tribunal would now hold that the provisions of the two paragraphs of Article 2 referred to above are declaratory of customary law and bind all States, whether they are members of the United Nations or not." (*The Law of Treaties*, p. 217.)

455. The status of the rule prohibiting the use or threat of force as a part of customary or general international law is confirmed in the following sources (which are intended to be exemplary and not exhaustive):

(*a*) The Judgment of the Court in the Jurisdiction phase of the present case (Judgment, para. 73).
(*b*) The International Law Commission in its Report to the General Assembly (*Yearbook of the International Law Commission*, 1966, Vol. II, p. 169).
(*c*) Judge Baxter (129 Hague *Recueil* (1970-I), p. 31, at p. 71).
(*d*) Judge Mosler (*The International Society as a Legal Community*, 1980, p. 277).
(*e*) President Jiménez de Aréchaga (159 Hague *Recueil* (1978-I), p. 9, at pp. 87-88).
(*f*) Professor Tunkin (95 Hague *Recueil* (1958-I), p. 5, at pp. 14-15).

456. It may be pointed out that the phrase "use of force" in the provisions of Article 2 (4) of the Charter is broad in scope, and thus comprehends all applications of armed force. (See Whiteman, *Digest of International Law*, 1965, Vol. 12, pp. 3-7.)

457. President Jiménez de Aréchaga, giving the General Course at the Hague Academy, has offered a useful commentary on the concept of a "threat of force". In his words:

> "Article 2, paragraph 4, bars not only the use but also the threat of force. A threat of force is, for instance, the previous announcement of an act of violence, such as an ultimatum announcing recourse to military measures if certain demands are not accepted. A threat of force could also be implicitly conveyed by certain acts such as 'a demonstration of force for the purpose of exercising political pressure', the sudden concentration of troops in a

> border area in a situation of existing border dispute, or a display of force by means of warships close to the coasts of another State. A general mobilization could, in the context of a serious dispute, constitute a threat of force. On the other hand, an intensification of armaments, in general might not be looked upon as such a threat." (159 Hague *Recueil* (1978-I), p. 88. The quotation in the text is from the Judgment of the Court in the *Corfu Channel* case, *Merits*, *I.C.J. Reports 1949*, p. 4, at p. 35.)

The continuous United States military and naval maneuvers adjacent to Nicaraguan borders, officially acknowledged as a program of "perception management" falls readily within this description. (*NYT* 3/30/85.) Similarly, President Reagan's "peace proposal" of 4 April 1985 was, in reality, an ultimatum announcing recourse to military measures if certain demands are not accepted.

458. The absence of lawful justification for the activities constituting violations of the rule prohibiting resort to the use or threat of force will be shown in Section VII of the present chapter.

Section IV. Breaches of the Principle of Non-Intervention

459. A universally recognized principle of customary or general international law prescribes a duty not to intervene in the internal affairs of other States, and this particularly when the means of intervention involve the use or threat of force. (See Oppenheim, *International Law* (Hersch Lauterpacht, ed.), Vol. I, 1955, p. 305; O'Connell, *International Law*, Vol. I, pp. 299-300; Rousseau, *Droit international public*, 1980, Vol. IV, pp. 37-39, paras. 25-27; Tunkin, *Theory of International Law* (Butler Translation), 1974, pp. 115-116, 437-440; Jiménez de Aréchaga, 159 Hague *Recueil* (1978-I), p. 9, at pp. 111-116.)

460. In 1948 the Secretary-General of the United Nations published a study, prepared for the use of the International Law Commission, entitled "Preparatory Study concerning a Draft Declaration on the Rights and Duties of States", New York, 1948 (doc. A/CN.4/2). Article 5 of the draft Declaration provides: "No State has the right to interfere in the internal or external affairs of another State." (*Ibid.*, pp. 62-65.)

461. In the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, p. 4), the Judgment of the Court characterized the British action known as "Operation Retail" in terms which in effect created a presumption against the legality of intervention. (*I.C.J. Reports 1949*, p. 35.) Sir Hersch Lauterpacht has commented that the relevant passage affirms "the right of sovereign States to immunity from intervention on the part of other States". (*The Development of International Law by the International Court*, 1958, p. 317.) Moreover, in its Judgment in the Jurisdiction phase of the present case, the Court stated that the principle of non-intervention formed part of customary international law (*I.C.J. Reports 1984*, p. 424, para. 73).

462. The evidence of the breaches of the principle of non-intervention for which the United States bears legal responsibility is essentially identical with the evidence indicated previously in relation to violations of sovereignty and breaches of the obligation not to resort to the use or threat of force. As a consequence it is not necessary to repeat those indications. However, although the relevant evidential materials may be identical, it cannot be said that the principle of non-intervention has no autonomous role to play as a basis of claim.

463. In the first place, the authorities emphasize that the principle of non-intervention is more extensive than the concept of the use of force. (See O'Connell, *International Law*, 1970, Vol. I, p. 299.) O'Connell quotes General

Assembly resolution 2131 (XX) of 1966. The key formation of that resolution is reproduced in the important Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly as resolution 2625 (XXV). The relevant part of the Declaration of Principles provides as follows:

> "The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter.
>
> No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.
>
> No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed against the violent overthrow of the regime of another State, or interfere in civil strife in another State.
>
> The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.
>
> Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.
>
> Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security."

It is of interest that the language of the first two operative paragraphs quoted above is largely drawn from the Charter of the Organization of American States, Articles 18 and 19.

464. On the same subject — the ambit of the concept of intervention — President Jiménez de Aréchaga offers the following analysis:

> "As to the argument concerning Article 2, paragraph 4, it is true that much of the classic conception of non-intervention has been absorbed by the prohibition of the threat or use of force contained in that provision. The threat or use of force represents the most obvious and extreme form of intervention: it is precisely for this reason that a specific prohibition has been inserted in Article 2 (4) and special measures have been established in the Charter to deal with such a serious violation. But there are, however, other acts of 'dictatorial interference' which cannot be qualified, or might not be conveniently described, as an 'armed attack', and 'aggression' or even 'a use of or threat of (armed) force' and yet are equally in violation of international law. Despite the fact that the word 'intervention' is used with another meaning in its Statute and Rules, the International Court of Justice found it necessary to resort to this term to describe an act where a State had used warships in a unilateral action carried out in the territorial waters of another State (Operation Retail). Finally, the exclusion of economic and political pressure from the concept of force in the elaboration of Article 2 (4) made it all the more necessary to retain as a separate principle the duty of States not to intervene in the affairs of another State." ("International

Law in the Past Third of a Century", 159 Hague *Recueil* (1978-I), p. 9, at p. 11.)

465. The consideration that the concept of intervention is more ambitious than that of the use of force is to be set alongside another factor of differentiation. The classical purpose of intervention is the overthrow or substantial modification of the government or the prevailing political system in the target State. A perusal of the relevant documentary evidence in the present case reveals that effectively all of the military and paramilitary activities aimed at the Government and people of Nicaragua have one of two purposes, which are compatible and can exist and be implemented in combination:

(*a*) The actual overthrow of the existing lawful Government of Nicaragua and its replacement by a government acceptable to the United States; and
(*b*) The substantial damaging of the economy, and the weakening of the political system, in order to coerce the Government of Nicaragua into the acceptance of United States policies and political demands.

466. The absence of lawful justification for the activities constituting breaches of the principle of non-intervention will be shown in Section VII of the present chapter.

Section V. Breaches of the Obligation Not to Infringe the Freedom of the High Seas or to Interrupt Peaceful Maritime Commerce

467. The Applicant State complains that the United States is responsible for violations of obligations arising by virtue of customary and general international law not to infringe the freedom of the high seas and not to interrupt peaceful maritime commerce. The violations have taken the form of the mining of the Nicaraguan ports of Corinto, Puerto Sandino and El Bluff, and of attacks on merchant vessels in these ports by sea and air, with the result that access to and from the high seas had been restricted and safe passage endangered.

468. The principle of freedom of maritime communications was invoked by the Court, along with other principles, in its Judgment in the *Corfu Channel* case (*Merits, I.C.J. Reports 1949*, p. 4). In the words of the Court:

> "From all facts and observations mentioned above, the Court draws the conclusion that the laying of the minefield which caused the explosions on October 22nd, 1946, could not have been accomplished without the knowledge of the Albanian Government.
>
> The obligations resulting for Albania from this knowledge are not disputed between the Parties. Counsel for the Albanian Government expressly recognised that [translation] 'if Albania had been informed of the operation before the incidents of October 22nd, and in time to warn the British vessels and shipping in general of the existence of mines in the Corfu Channel, her responsibility would be involved. . .'
>
> The obligations incumbent upon the Albanian authorities consisted in notifying, for the benefit of shipping in general, the existence of a minefield in Albanian territorial waters and in warning the approaching British warships of the imminent danger to which the minefield exposed them. Such obligations are based, not on the Hague Convention of 1907, No. VIII, which is applicable in time of war, but on certain general and well-recognised principles, namely: elementary considerations of humanity, even more exacting in peace than in war; the principle of the freedom and maritime communication; and every State's obligation not to allow knowingly its

territory to be used for acts contrary to the rights of other States." (*I.C.J. Reports 1949*, p. 22.)

469. Principles of essentially the same kind had been invoked in the British Note of 9 December 1946 delivered to the Albanian Government following the incidents which led to the proceedings before the Court. The following passages from that Note are worthy of the attention of the Court:

> "18. Ever since the attack on H.M.S. 'Orion' and 'Superb', the Albanian authorities have maintained a close watch on all ships making use of the North Corfu Channel. Thus in June of this year merchant ships passing through the Channel were fired on, and during the passage of His Majesty's ships on 22nd October, the coastal batteries were seen to be manned. It is certain that no mine-field could have been laid in the Channel within a few hundred yards of the Albanian batteries without the connivance or at least the knowledge of the Albanian authorities.
>
> 19. His Majesty's Government must accordingly conclude that the Albanian Government either laid the mine-field in question or knew that it had been laid. The Albanian Government has thus committed a flagrant breach of International Law. Under Articles 3 and 4 of the 8th Hague Convention of 1907 any Government laying mines in war-time, and *a fortiori* in peace, is bound to notify the danger zones to the Governments of all countries. (This obligation in fact applies even if the zones in question are not normally used by shipping.) Not only have the Albanian Government never made any public notification of this minefield but they have also made no comment on the continued issue of the relevant Medri charts and pamphlets. They have thus endorsed a clear statement by the recognised international authority concerned to the shipping of the world that the Channel was safe for navigation. As a result, two of His Majesty's ships have been seriously damaged and forty-four innocent lives have been lost. Moreover, this conduct on the part of the Albanian Government menaced with destruction shipping of any kind using a Channel which is a normal and recognised route for international navigation.
>
> 20. His Majesty's Government demand that an apology be made to them in respect of the unprovoked attacks upon the Royal Navy, which took place on 15th May and 22nd October, and that they receive assurance that there shall be no repetition of this unlawful action. They further demand that reparation be paid for the damage suffered by His Majesty's ships on 22nd October and that full compensation be paid to the relatives of the forty-four officers and seamen of the Royal Navy who lost their lives in consequence of action on the part of the Albanian Government which was an undoubted breach of International Law, constituted a menace to international shipping, to the safety of which the most callous indifference was shown, and must, in view of their knowledge that His Majesty's ships habitually used the Channel and claimed the right to do so under International Law be regarded as a deliberately hostile act against His Majesty's Government.
>
> 21. As this matter is of such importance from the point of view of safety at sea and of the issues involved, His Majesty's Government must ask for an immediate reply. If no satisfactory reply is received within fourteen days of the delivery of this note, His Majesty's Government will have no alternative but to bring the matter before the Security Council of the United Nations as a serious threat to, and a breach of, international peace and

> security, showing criminal disregard of the safety of innocent seamen of any nationality lawfully using an international highway."

470. The complete text of the British Note is set out in Whiteman, *Digest of International Law*, 1965, Volume 4, pages 447-452.

471. The Court's formulation of the relevant principles in the *Corfu Channel* case is commonly referred to with approval by the authorities. (See Colombos, *The International Law of the Sea*, 1967, p. 134; McDougal and Burke, *The Public Order of the Oceans*, 1962, pp. 204-208; Fitzmaurice, *British Year Book of International Law*, 1950, Vol. 27, p. 1, at p. 4; Waldock, 106 *Hague Recueil* (1962, II), p. 5, at p. 63. See also Barabolya *et al.*, *Manual of International Maritime Law*, 1966 (Translation, United States Department of the Navy, January 1968), pp. 79-81.) The importance of the freedom of the high seas is recognized by the provisions of the High Seas Convention of 1958, to which the United States is a party and which provisions are stated in the Preamble to be "generally declaratory of established principles of international law".

472. Apart from the statement of principle by the Court in the *Corfu Channel* case, it has been long recognized that infringement of the freedom of the high seas, for example, by interference with the passage of vessels, constituted a specific basis of claim. For references see Brownlie, *System of the Law of Nations: State Responsibility*, Part I, page 69. Thus the Australian Application in the *Nuclear Tests* cases included the following claim:

> "(iii) The interference with ships and aircraft on the high seas and in the superadjacent airspace, and the pollution of the high seas by radio-active fall-out, constitute infringements of the freedom of the high seas." (*I.C.J. Pleadings, Nuclear Tests* cases (*Australia* v. *France*), Vol. I, para. 49; and see also pp. 337-338, paras. 457-460.)

473. Finally, it may be recalled that in its Judgment in the Jurisdiction phase of the present proceedings the Court characterized the principle of freedom of navigation as part of customary international law (*I.C.J. Reports 1984*, p. 424, para. 73).

474. Evidence concerning the mining of Nicaraguan ports by agents of the United States takes two forms. As with the other causes of action put forward in this Chapter, there is the pattern of indirect evidence and evidence in the form of express admissions which established the substantial and persistent United States involvement in and responsibility for the campaign of "covert action", including military and sabotage actions, directed against Nicaragua. (See paras. 14 ff., *supra*.)

475. In addition to such evidence of the general intention of the United States and the pattern of operations, there is cogent evidence directly relating to the mining of Nicaraguan ports in March 1984.

476. Early in April members of Congress received reports of the mining of Nicaraguan harbors and Senator Goldwater sent his famous letter of protest to CIA Director William J. Casey dated 9 April 1984. (Ann. F, Attachment 9.) This letter makes precise and emphatic reference to the mining of harbors in Nicaragua. In face of this well-publicized protest the Administration made no attempt to deny the facts and no attempt to offer a legal justification.

477. Indeed, such official comment as was made was in effect an admission of CIA direction and control. This occurred in the statement made on behalf of the CIA by the Agency's spokesman, George Lauder, on 16 April 1984 where the following passages appear:

"During the 13 January 1981 Senate Select Committee on Intelligence hearing on the nomination of Mr. Casey to the Director of the C.I.A., Mr. Casey said:

'I intend to comply fully with the spirit and letter of the Intelligence Oversight Act. I intend to provide this Committee with the information it believes it needs for oversight purposes.'

Mr. Casey believes the record will reflect that he and his staff have kept that pledge. A chronology of briefings of the Congressional oversight committees in connection with events in Central America reveals that from December 1981 through March 1984, either the director or deputy director briefed the Congressional committees 30 times on Central America.

Moreover, from 16 September 1983 through 2 April 1984, other officials of C.I.A. briefed either the committees or the committee staff 22 times on Central American developments. *Since the first of this year, the subject of mining of Nicaraguan ports has been discussed with members or staffers of the Committees and other members of the Congress 11 times.* (Emphasis added.) (Ann. C, Attachment II-5.)

478. This statement constitutes an express admission of the responsibility of the United States for the mining operations in Nicaraguan waters. United States officials have not sought to qualify or to deny the statement made on behalf of the CIA on 16 April 1984. Moreover, during the proceedings on Nicaragua's Request for the Indication of Provisional Measures the facts relating to the mining remained undisputed.

479. In its Order of 10 May 1984 the Court unanimously indicated, as a provisional measure of protection, that

"the United States should immediately cease and refrain from any action restricting, blocking or endangering access to or from Nicaraguan ports and, in particular, the laying of mines". (Para. 41 (B) (1).)

480. In response to the Court's Order of 10 May, the State Department spokesman said on 10 May 1985 that "nothing contained in the measures indicated by the Court is inconsistent with the current United States policy on activities with respect to Nicaragua". (Ann. C, Attachment II-6, p. 209, *infra*.) When asked whether this meant that "as a matter of simple fact, the mining has stopped?" the spokesman replied:

"As you know, we have not responded to questions relating to mining and alleged covert activity, but I think you might read the statement concerning current activity in conjunction with allegations that have been made." (*Ibid.*, pp. 4-5.)

Taken in the context, the spokesman's reply is an official admission of responsibility for the mining, including control over its beginning and ending.

481. The damage caused to foreign merchant shipping by the illegal mining operations resulted in a number of diplomatic protests addressed directly to the Government of the United States. Thus, in reply to a question, the Parliamentary Under-Secretary of the British Foreign and Commonwealth Office produced the following written answer:

"We have made clear to the United States Government that we are committed to the principle of freedom of navigation and deeply deplore the mining of Nicaraguan ports." (*Hansard, H.C. Debs.*, Vol. 58, Written Answers, Col. 470, 13 April 1984. A number of other Governments also protested. See, e.g., *NYT* 4/9/84; *WP* 4/10/84.)

482. Two recent articles in the *Wall Street Journal*, among others, provide a detailed account, based on both United States officials and counterrevolutionary sources, of the precise organization and *modus operandi* of the mining operation. (*WSJ* 3/5/85; *WSJ* 3/6/85.) This account reveals that the mining operation was but a part of a general program of armed attacks in Nicaraguan waters intended to scare off foreign commercial shipping.

483. The absence of lawful justification for the mining operations in Nicaraguan waters will be shown in Section VII of the present chapter.

Section VI. Breaches of the Obligation Not to Kill, Wound or Kidnap Citizens of Nicaragua

484. The Application of Nicaragua invokes the obligation of customary international law according to which a State has a duty not to kill, wound or kidnap the nationals of other States. This duty is normally stated in respect of the treatment by a State of foreign nationals present within its territory, but the duty is equally applicable to foreign nationals harmed outside the territory of the Respondent State. The key to this basis of claim is the absence of any lawful justification for the harmful acts.

485. The cause of action can be expressed, quite simply, as the killing, wounding or kidnapping of the citizens of Nicaragua without lawful justification. The legal bases of such a claim consist of a wealth of jurisprudence of claims commissions and instances of State practice. The Court's attention is respectfully drawn to the following materials:

(*a*) On the extensive practice of claims commissions (see e.g., Feller, *The Mexican Claims Commissions 1923-1934*, 1935, Chapter 7; Verzijl, *International Law in Historical Perspective*, Vol. VI, 1973, pp. 647 ff.).

(*b*) For the practice of States, including the practice of the United States (see Whiteman, *Digest of International Law*, 1965, Vol. 8, pp. 850-906; *Répertoire suisse de droit international public*, 1975, Vol. III, pp. 1710-1722.)

(*c*) The views of qualified publicists, including Jiménez de Aréchaga (159 Hague *Recueil* (1978), pp. 267 ff.; Oppenheim, *International Law* (H. Lauterpacht, ed., 1955), Vol. I, pp. 357-364; O'Connell, *International Law*, 1970, Vol. II, pp. 941-952; Jiménez de Aréchaga, in Sørensen (ed.), *Manual of Public International Law*, 1968, pp. 533, 544-547; Guggenheim, *Traité de droit international*, 1954, Vol. II, pp. 1-11; American Law Institute, *Restatement (Second) Foreign Relations Law of the United States*, 1965, paras. 164-168).

486. There can be little doubt that the obligation of customary law not to kill, wound or kidnap the nationals of other States applies to such persons not only when they are present within the territory of the Respondent State but also when they are outside the territory. This assumption lies behind the claim presented to the British Government by the United States in the *Caroline* incident (see Jennings, 32 *American Journal of International Law* (1938), p. 82). The application of the duty in respect of aliens outside the territorial jurisdiction is recognized by O'Connell (*International Law*, 1970, Vol. II, p. 950).

487. The broad application of the duty is evident in the cases relating to the destruction of civil aircraft. It may be that the position of the aircraft is relevant to an issue of excusable error, but there can be no doubt that the duty not to use force against civil aircraft is not conditioned by the position of the aircraft

inside or outside the territorial airspace of the Respondent State. In such cases the Respondent State is liable for the killing and wounding of the passengers and crew. (See, for example, Whiteman, *Digest of International Law*, Vol. 8, pp. 885-906.) The same principle appears in the practice of States concerning harm to nationals caused by frontier guards. (See *Italian Yearbook of International Law* (1977), Vol. III, pp. 435-437.)

488. A further legal consideration relates to the force and relevance of the fundamental norms protecting human rights, which must apply equally to foreign nationals, whether they are harmed within or without the territory of the Respondent State, provided that the State is responsible for the death, injury or kidnapping. In the case concerning the *Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain) (Second Phase)* (*I.C.J. Reports 1970*, p. 3), the Court referred in its Judgment to "Obligations *erga omnes*", which included the "principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination". (*I.C.J. Reports 1970*, p. 32, paras. 33-34.)

489. Of considerable significance is the fact that Whiteman's *Digest*, an official United States publication, includes a series of prescriptions concerning human rights in the section devoted to "State responsibility for injuries to aliens". (See Vol. 8, p. 697, at pp. 904-906.) The prescriptions set forth by Whiteman include the right to life, liberty and security of the person.

490. In the specific case of unlawful detention of aliens, there is a considerable quantity of material evidencing the application of the international obligation to cases of wrongful detention by agents of the State. (See, for example, Whiteman, *Digest of International Law*, Vol. 8, pp. 863-885; and the Liechtenstein Application in the *Nottebohm* case *(Liechtenstein* v. *Guatemala), Preliminary Objections, I.C.J. Reports 1953*, p. 111, at pp. 112-113; and see also *ibid., Second Phase, Judgment, I.C.J. Reports 1955*, p. 4, at pp. 6-7.) In the case concerning *United States Diplomatic and Consular Staff in Tehran* (*I.C.J. Reports 1980*, para. 3, at pp. 67-69), the United States Memorial refers to the "generally recognized" principles of international law concerning the treatment of aliens.

491. One final observation on the legal aspects of the claim for the killing, wounding and kidnapping of Nicaraguan citizens is called for. Such acts must surely fall within the concept of the use of force which is prohibited by the norm of general international law reflected in Article 2 (4) of the United Nations Charter. In this connection it may be noted that the United States Application in the *United States Diplomatic and Consular Staff in Tehran* case invoked the provisions of that Article. (*I.C.J. Reports 1980*, pp. 5-6.)

492. The evidence of the breaches of the obligation not to kill, wound or kidnap the citizens of Nicaragua, for which the United States is responsible, is substantially the same as the evidence indicated previously in relation to violations of sovereignty and breaches of the obligation not to resort to the use or threat of force. Consequently, it is not necessary to repeat those indications.

493. However, certain aspects of the evidence have special significance for present purposes. In particular, the references in the documents to the United States purpose of destabilizing the Government of Nicaragua are important. The tactics of this process include the spreading of terror and danger to non-combatants as an end in itself with no attempt to observe humanitarian standards and no reference to the concept of military necessity. The same process links up with the tactics of disrupting normal economic life in the countryside generally, and of the deliberate killing of key personnel, including school teachers and administrators. (See Statement of Facts, paras. 125-128.)

494. Certain items of evidence provide direct proof of the tactics adopted by the *contras* under United States guidance and control. Such evidence includes the following:

(*a*) The public admission by Edgar Chamorro, then a leader of the mercenary group known as the Nicaraguan Democratic Force operating against Nicaragua, in an interview given in October 1984. In this interview Mr. Chamorro made the following statement:

> "Frankly, I admit we killed people in cold blood when we found them guilty of crimes. We do believe in the assassination of tyrants. Some of the Sandinistas are tyrants in the small villages." (*NYT* 10/21/84.)

(*b*) The revelation, in press reports, of the existence of classified Defense Intelligence Agency report according to which "US-backed Nicaraguan guerrillas were committing political assassinations as early as 1982". The same report contains the following:

> "The weekly defense intelligence reports are widely distributed among intelligence officials and the one first mentioning assassination, dated July 1982, has been circulated among government agencies.
>
> The document, a copy of which was obtained by *The New York Times*, says the rebels' activities in the spring of 1982 included 'attacks by small guerrilla bands on individual Sandinista soldiers and the assassination of minor government officials and a Cuban adviser'.
>
> Asked Friday if the president or his top advisers knew of the report, a White House spokesman, Larry Speakes, said 'No'.
>
> Senator Daniel Patrick Moynihan, a Democrat of New York, who is deputy chairman of the Senate Select Committee on Intelligence, said Saturday that the word 'assassination' printed in the report 'should have flashed off the page' when the report was first published." (*NYT* 10/21/84.)

(*c*) The preparation and distribution by the CIA of a primer or guide to tactics for use by forces carrying out operations under the control and guidance of the United States. The work was entitled *Psychological Operations in Guerrilla War* and contained advice on the tactics of terror. Edgar Chamorro acknowledged that the CIA primer was well known to United States personnel working with the mercenaries in Honduras. He said further that mercenary leaders had deleted two pages with which they disagreed, but added that the sections dealing with "neutralizing" selected public officials were left intact. (*NYT* 10/20/84, *NYT* 10/21/84.)

495. The *original* provenance of the primer was not the mercenaries but the CIA itself. President Reagan himself admitted, in his nationally televised debate with former Vice-President Mondale on 21 October 1984, that the manual was a CIA product. (Ann. C, Attachment I-7, p. 177, *infra*.) See also Report of the House of Representatives Permanent Select Committee on Intelligence (98th Congress, 2d Sess., Rept. No. 98-1196 (2 Jan. 1985), Ann. E, Attachment 17), for a further official acknowledgment that the CIA had produced the manual.

496. A report entitled *Attack by the Nicaraguan "Contras" on the Civilian Population of Nicaragua* (Ann. I, Attachment 2), provides detailed reports, supported by eye-witness affidavits, of numerous attacks on civilian coffee pickers, farms and villages and civilian vehicles. It also gives reports, similarly documented, of individual and mass kidnappings, as well as rapes. (See also Ann. I, Attachment 3.)

497. The absence of justification for the killing, wounding and kidnapping of Nicaraguan citizens will be shown in Section VII below.

Section VII. Obligations Arising under Customary International Law: the Question of Justification for Breaches

498. Nicaragua affirms that there is no lawful justification for the breaches of the obligations of customary and general international law for which the United States is responsible. Allegations made by the United States about the conduct of Nicaragua, unsupported by evidence, "do not provide a basis on which the Court could form a judicial opinion on the truth or otherwise of the matters there alleged". (See the Judgment of the Court in the *United States Diplomatic and Consular Staff in Tehran* case, *I.C.J. Reports 1980*, p. 3, at p. 38, para. 82 *in fine*.)

499. In spite of the fact that Nicaragua does not bear the burden of proof, and there is no case to meet concerning justification, certain pointers exist which may be of assistance to the Court.

500. The first pointer is the very sudden and very belated appearance, in April 1984 after the filing of Nicaragua's Application, of reference by United States officials to collective self-defense. (See Chap. II, Sec. IV.) The conclusion reached there is, in substance, that the sudden and belated attempt to justify the military operations three years after the beginning of such operations could have no credibility whatsoever, and that, in ordinary legal logic, it was too late at that stage to offer a justification. This conclusion is further supported by the substantial disappearance of self-defense assertions after the United States indicated its intention not to participate further in these proceedings.

501. The other pointers are fairly obvious and can be expressed quite briefly. The hypothesis of collective self-defense can be measured against certain factual elements which are clearly established by the abundant evidence available. When this is done the following compelling conclusions are reached:

(*a*) In the case of the mining operations, no concept of self-defense could apply since such operations are by definition indiscriminate, affecting shipping generally.

(*b*) The objective of overthrowing or destabilizing the lawful government of Nicaragua has nothing in common with self-defense.

(*c*) The actions directed against non-combatants do not fall within a legal concept of self-defense.

Conclusion

502. The foregoing discussion conclusively establishes that the United States, by the activities of its own officers and agents and through its support, direction and control of the mercenary forces, has repeatedly acted in total disregard of its obligations to Nicaragua under general and customary international law. The delicts of the United States include breaches of the most fundamental principles of law governing relations between States as well as the principles concerning treatment of persons and basic human rights. These breaches are abundantly supported by the evidence. The Court should so adjudge.

PART IV

RELIEF REQUESTED AND SUBMISSIONS

CHAPTER VIII

THE RELIEF REQUESTED OF THE COURT BY THE GOVERNMENT OF NICARAGUA

Section I. Introduction

503. Prior to setting forth the Submissions in which the relief requested of the Court by the Government of Nicaragua will be specified, it is necessary to indicate certain considerations to which Nicaragua attaches particular importance.

Section II. The Continuing Violations

504. The serious violations of international law for which the United States is responsible are continuing as this Memorial is submitted. Armed mercenaries for whose activities the United States bears responsibility are continuing to kill, maim, rape and kidnap nationals of Nicaragua, and to inflict severe economic damage upon the country. Accordingly, Nicaragua considers it necessary to request both a declaration that the conduct of the United States is illegal, and a declaration that its illegal activities should be terminated.

505. In the case concerning *United States Diplomatic and Consular Staff in Tehran* (*I.C.J. Reports 1980*, p. 3), the *Dispositif* of the Judgment includes a declaration in the form of an injunction calling upon the Government of the Islamic Republic of Iran to take specific measures to terminate the illegal conduct there in question. (*Ibid.*, pp. 44-45.) Further, as the Court stated in its Advisory Opinion concerning Namibia in 1971:

> "A binding determination made by a competent organ of the United Nations to the effect that a situation is illegal cannot remain without consequence. Once the Court is faced with such a situation, it would be failing in the discharge of its judicial functions if it did not declare that there is an obligation, especially upon Members of the United Nations, to bring that situation to an end. As this Court has held, referring to one of its decisions declaring a situation as contrary to a rule of international law: 'This decision entails a legal consequence, namely that of putting an end of an illegal situation (*I.C.J. Reports 1951*, p. 82).'" (*Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, *Advisory Opinion*, *I.C.J. Reports 1971*, p. 16, at p. 54.)

Because of the continuing nature of the illegal actions by the United States, Nicaragua reserves the right to present additional evidence to the Court with respect to such actions.

Section III. Assessment of the Quantum of Damages

506. In the circumstances of the present case Nicaragua requests that the Court make a declaration as to the liability of the United States to pay compensation for the violations of international law specified in this Memorial, and, further, to receive evidence and to determine, in a subsequent phase of these proceedings, the amount of damage to be assessed. The Court has given express recognition of the propriety of a request in this form. (See the *Fisheries Jurisdiction* case (*Federal Republic of Germany* v. *Iceland*), *I.C.J. Reports 1974*, p. 175, at pp. 204-206, paras. 76-77.) A similar request presented by the Applicant State in the case concerning *United States Diplomatic and Consular Staff in Tehran* (*I.C.J. Reports 1980*, p. 3, at pp. 6-8), was granted by the Court. See the *Dispositif* at page 45 (decision No. 6). Moreover, in its Judgment in the *United States Diplomatic and Consular Staff in Tehran* case the Court placed particular emphasis upon the fact that Iran's breaches of its obligations were still continuing. In the words of the Court:

> "On the basis of the foregoing detailed examination of the merits of the case, the Court finds that Iran, by committing successive and continuing breaches of the obligations laid upon it by the Vienna Conventions of 1961 and 1963 on Diplomatic and Consular Relations, the Treaty of Amity, Economic Relations, and Consular Rights of 1955, and the applicable rules of general international law, has incurred responsibility towards the United States. As to the consequences of this finding, it clearly entails an obligation on the part of the Iranian State to make reparation for the injury thereby caused to the United States. Since however Iran's breaches of its obligations are still continuing, the form and amount of such reparation cannot be determined at the present date." (*Ibid.*, pp. 41-42, para. 90.)

Section IV. Submissions

507. The Republic of Nicaragua respectfully requests the Court to grant the following relief:

First: the Court is requested to adjudge and declare that the United States has violated the obligations of international law indicated in this Memorial, and that in particular respects the United States is in continuing violation of those obligations.

Second: the Court is requested to state in clear terms the obligation which the United States bears to bring to an end the aforesaid breaches of international law.

Third: the Court is requested to adjudge and declare that, in consequence of the violations of international law indicated in this Memorial, compensation is due to Nicaragua, both on its own behalf and in respect of wrongs inflicted upon its nationals; and the Court is requested further to receive evidence and to determine, in a subsequent phase of the present proceedings, the quantum of damages to be assessed as the compensation due to the Republic of Nicaragua.

Fourth: without prejudice to the foregoing request, the Court is requested to award to the Republic of Nicaragua the sum of 370,200,000 United States dollars, which sum constitutes the minimum valuation of the direct damages, with the exception of damages for killing nationals of Nicaragua, resulting from the violations of international law indicated in the substance of this Memorial.

508. With reference to the fourth request, the Republic of Nicaragua reserves the right to present evidence and argument, with the purpose of elaborating the minimum (and in that sense provisional) valuation of direct damages and, further, with the purpose of claiming compensation for the killing of nationals of Nicaragua and consequential loss in accordance with the principles of international law in respect of the violations of international law generally, in a subsequent phase of the present proceedings in case the Court accedes to the third request of the Republic of Nicaragua.

30 April 1985.

Respectfully submitted,

(*Signed*) Carlos ARGÜELLO GOMEZ,
Agent for the Republic of Nicaragua.

ANNEXES TO THE MEMORIAL OF NICARAGUA

Annex A

Affidavit of Commander Luis Carrión, Vice-Minister of the Interior of Nicaragua

I, Commander of the Revolution Luis Carrión, certify and declare the following:

1. I am Vice-Minister of the Interior of the Republic of Nicaragua.

2. My official responsibilities include monitoring and maintaining records of attacks against Nicaragua by military and paramilitary forces financed, armed and controlled by the Government of the United States. In the exercise of my official duties, I receive regular reports on these attacks from local and regional officials and employees of the ministry of the interior throughout the country. Pursuant to my standing instructions, these local and regional officials and employees regularly report the date, time, location and nature of each attack against Nicaragua, the size of the attacking force, the military equipment used, the number of people killed, wounded, kidnapped or displaced from their homes, and the physical damage to property caused by the attack. This information is analyzed under my supervision, and communicated to civilian and military authorities of my Government. It is used by the Government in defense and economic planning.

3. Exhibit A attached to this affidavit is a chronological account of the principal attacks directed by the mercenary forces from 1981 to the end of 1984. It was prepared, at my instruction, from information contained in the regular reports described above.

4. Exhibit B attached to this affidavit is a memorandum addressed to the Embassy of the United States in Honduras on January 24, 1984, from the "task force commanders of the FDN and MISURAS", in which these commanders request the assistance of an "operational advisor" and state that they "want to deeply thank the Government of the United States of America".

[Certification in Spanish not reproduced]

Exhibit A

CHRONOLOGICAL ACCOUNT OF THE PRINCIPAL ATTACKS ON NICARAGUA BY US-SPONSORED MERCENARY FORCES, DECEMBER 1, 1981-NOVEMBER 30, 1984

December 2, 1981 A group of mercenaries invaded the community of San Jeronimo, kidnapping and later torturing and killing a health-care worker.

December 4, 1981 Approximately 60 mercenaries invaded the community of Asang, kidnapping and later killing 2 members of one family. They also robbed the local ENABAS[1] warehouse of 600 quintales of rice and 35,000 cordobas in cash.

December 8, 1981 Armed mercenaries coming from Honduras invaded the community of La Esperanza, ordering the inhabitants to cross over to Honduras and threatening with death those who refused. They also threatened those who worked for government agencies.

December 14, 1981 Twelve members of the border patrol were kidnapped near San Carlos and then assassinated. Four days later, 3 other Nicaraguans were ambushed and killed in the same area.

December 21, 1981 Mercenaries seized the community of San Carlos, torturing and killing 8 members of the Nicaraguan armed forces.

December 28, 1981 Approximately 15 mercenaries invaded the community of Bilwaskarma, kidnapping 4 people, including a woman doctor, Myrna Cunningham, and a nurse, Regina Lewis. The mercenaries took the women to Honduras, where they were gang-raped.

December 31, 1981 Approximately 25 mercenaries kidnapped a citizen from the community of Andres Tara. He was later found dead, his throat cut and the eyes removed from their sockets.

January 2, 1982 Approximately 60 mercenaries attacked the town of Rati, Zelaya Norte, from Honduras, killing 3 Nicaraguans.

In a separate attack, a group of 45 mercenaries armed with shotguns, rifles and pistols invaded Limbaica, Zelaya Norte, stealing 2 vehicles, 2 boats, and various items of equipment. Later the same group burned a bridge at Alamikamba.

January 5, 1982 Mercenaries invaded the community of Tuskrutara, Zelaya Norte, kidnapping a reservist and his wife.

February 4, 1982 Mercenaries assassinated an activist in the CDS at Kuskawas, Matagalpa.

February 5, 1982 Forty mercenaries proceeding from Honduras attacked the border post at Las Brisas, Nueva Segovia, killing 3 guards.

February 22, 1982 Mercenaries attacked the border post at Mata de Platano; the attack was repelled by border guards.

March 3, 1982 Approximately 25 mercenaries assassinated a judge in Panwas, Matagalpa.

March 9, 1982 In the community of Umbla, 20 mercenaries assassinated two children, aged 6 and 7 years, and wounded a campesino.

March 14, 1982 Mercenaries blew up the bridge over the Rio Negro near Somotillo, completely destroying it. On the same day, an explosion damaged the bridge over the Rio Coco at Ocotal.

March 18, 1982 At La Ermita, 60 mercenaries attacked the building used by the local militia, killing 2 civilians, including a 5-year-old girl. Three people were wounded.

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[1] Various acronyms for private and governmental organizations are employed in this chronology. The most common of these, with their denotations in English, are: CDS, Sandinista neighborhood committees; CEP, popular education committees; CEPAD, the Evangelical Committee for Aid and Development; ENABAS, the State grain trading company; ENCAFE, the State coffee trading company; INE, the State electric company; INRA, the Ministry of Agrarian Reform; IRENA, the Ministry of Natural Resources; MICONS, the Ministry of Construction; TELCOR, the State telecommunications company; TGF, the border patrol; UNAG, the National Association of Farmers and Ranchers; YODECO, the State lumber company.

March 19, 1982 — Mercenaries invaded Walike, burning 5 buildings at a MICONS installation and looting nearby stores.

March 21, 1982 — At Las Cuatro Esquinas, mercenaries robbed the ENABAS post of 21,000 cordobas.

March 23, 1982 — Mercenaries invaded the town of Waiana, burning the schoolhouse and robbing the commissary.

April 4, 1982 — In the district of La Ceiba, Somotillo, 20 mercenaries armed with rifles kidnapped 22 campesinos, including 7 women and 9 children.

April 5, 1982 — In the district of Banco de Siquia, Zelaya Sur, 10 mercenaries armed with rifles and grenades attacked the local co-operative, killing 1 civilian, beating the leader of the local militia and burning his house.

April 6, 1982 — In the district of La Danta, Zelaya Sur, 60 mercenaries armed with rifles and shotguns attacked and burned the house of the leader of the local militia, killing 3 civilian members of the militia and kidnapping 4 others.

April 12, 1982 — Twenty mercenaries kidnapped 3 civilian members of the militia at San Francisco, Nueva Segovia, killing 1 and wounding the others.

April 14, 1982 — Thirty-five mercenaries ambushed a caravan of INRA vehicles at Rio Wilika, killing 1 civilian.

April 24, 1982 — Twenty-five mercenaries invaded the district of Yali, Matagalpa, robbing and burning the command post of the local militia and injuring a civilian member of the militia.

April 27, 1982 — Six armed mercenaries assassinated 2 voluntary policemen and 2 civilian members of the militia in the town of La Fonseca.

May 16, 1982 — Eight mercenaries attacked the ENABAS post at Wanawas, killing 3 Nicaraguans and carrying off all of the merchandise and 6,000 cordobas in cash. One person was wounded.

June 2, 1982 — On the Kukra River, near Bluefields, mercenaries attacked a boat carrying civilian workers, killing 1.

June 19, 1982 — Two employees of the Ministry of the Interior were killed in combat with mercenaries at Salto Grande.

July 4, 1982 — Near Seven Bank, Zelaya Norte, 14 soldiers from the Popular Sandinista Army were killed in combat with mercenaries.

In a separate attack, 40 mercenaries kidnapped 16 Nicaraguans, including 2 women, at Ubu, Zelaya Sur, killing 3 of them and raping one of the women. The mercenaries also robbed a store of 155,000 cordobas.

July 7, 1982 — At Wina, Jinotega, approximately 60 mercenaries ambushed and killed 10 members of the Popular Sandinista Army. One person was wounded.

July 16, 1982 — Approximately 60 mercenaries seized the town of San Fernando, killing 1 civilian, kidnapping 4 others, and burning government offices and a private house.

July 17, 1982 — Some 40 mercenaries attacked Limbaica, Zelaya Norte, killing 11 members of the Popular Sandinista Army.

July 24, 1982 — Fourteen Nicaraguans were killed, 8 were kidnapped and 4 were wounded when mercenaries supported by heavy artillery attacked the border posts of San Francisco del Norte and Guayabillo. Many of the victims were also tortured. Later, 4 more Nicaraguans were killed and 4 were wounded in combat with the mercenaries who had attacked San Francisco del Norte.

In a separate incident, 80 mercenaries attacked La Presa del Salto, killing 7 members of the army and militia and injuring 1 woman.

August 4, 1982 Twenty mercenaries attacked the headquarters of the militia at San Francisco de Kukra Rivers, Bluefields, killing 1 civilian member of the militia and kidnapping 10 others.

August 8, 1982 17 mercenaries assassinated the CDS co-ordinator at Apatillo del Sabalar, Matagalpa.

August 11, 1982 At Musawas, mercenaries assassinated 3 teachers, tortured several other Nicaraguans, and burned foodstuffs.

August 11, 1982 In the community of Malakawas, mercenaries assassinated an adult education worker.

August 14, 1982 Twenty-five mercenaries assassinated a woman member of the local CDS at Las Pampas, Nueva Segovia.

August 24, 1982 Twelve mercenaries armed with rifles and pistols kidnapped 2 civilians in the El Trapiche district.

August 29, 1982 Approximately 70 mercenaries blew up the MICONS installation at Ivas, Matagalpa, killing one civilian and destroying 31 trucks, several pieces of construction equipment, a workshop and other facilities valued at a total of 12 million cordobas.

September 11, 1982 Twenty mercenaries kidnapped and assassinated an adult education worker at Los Chiles.

September 19, 1982 A band of 13 mercenaries invaded the Tawa district, attacking 3 houses of local residents and raping a woman.

September 22, 1982 At San Nicolas, Nueva Segovia, a band of mercenaries ambushed and killed 2 INRA technicians and wounded 5 other persons.

October 3, 1982 Twenty-five mercenaries kidnapped, tortured and killed a campesino at El Sanzapote, beating and tying up several members of his family.

October 10, 1982 Mercenaries ambushed a pick-up truck of INRA at Jalapa, killing one Nicaraguan and wounding 3 others.

October 14, 1982 At La Estancia and Suace, Nueva Segovia, a band of 40 mercenaries killed 3 Nicaraguans and kidnapped another.

October 15, 1982 Twelve mercenaries invaded the La Providencia farm in the Saiz district, kidnapping 3 Nicaraguans.

October 26, 1982 Approximately 25 to 30 mercenaries kidnapped 5 farm workers in the El Quemazon district.

October 28, 1982 Mercenaries assassinated 5 members of the military in the community of La Frangua, including a father and his son.

October 28, 1982 Approximately 14 mercenaries kidnapped 3 INRA employees at Haulover; they also robbed the local commissary of 5,000 cordobas, foodstuffs and a boat and motor.

November 6, 1982 Ten mercenaries tortured and killed a civilian member of the militia at El Pantasma, Jinotega.

November 9, 1982 At 2:00 in the morning, 30 armed mercenaries kidnapped 42 workers from 3 farms in San Jose de Las Manos, Nueva Segovia.

November 9, 1982 At Cerro Campo Hermoso, east of Jalapa, some 20 mercenaries set off an explosion in an electric generating plant, causing a blackout in Jalapa.

November 16, 1982 In Ciudad Antigua, Nueva Segovia, a band of some 50 mercenaries kidnapped 3 campesinos from the Ramon Raudales co-operative. Their bodies were found the next day.

November 16, 1982 A mercenary military unit kidnapped 60 campesinos from a farm at Rio Arriba, Jalapa. Also kidnapped were 2 children of a man who worked for State Security.

November 21, 1982 In the community of Buena Vista, Jalapa, Nueva Segovia, 30 mercenaries intercepted and assassinated 3 campesinos.

November 22, 1982 — A band of approximately 80 to 100 mercenaries armed with FAL, BZ and M-16 rifles invaded the district of El Pantasma, kidnapping a member of the FSLN and his 16-year-old daughter.

November 22, 1982 — A group of 21 mercenaries armed with rifles and revolvers kidnapped 5 people at El Casmito.

November 24, 1982 — A band of 25 mercenaries assassinated a UNAG delegate and an officer of the Popular Sandinista Army at Buena Esperanza, on the Okawas River.

November 25, 1982 — A group of mercenaries sabotaged a gasoline tank belonging to the border patrol and burned a bridge at Musuli, Jalapa.

November 29, 1982 — At El Carbon, Nueva Segovia, some 60 mercenaries attempted to seize the observation post maintained by the border patrol (TGF), cutting the throat of the TGF member at the post. One soldier was also killed.

November 30, 1982 — Mercenaries using heavy weapons shot down one government helicopter and damaged another in the area of La Golondrina farm, near San José de Bocay. Two Nicaraguans were killed and 2 were injured.

December 4, 1982 — At the San Ramon farm in the El Bambucito district, 2 members of the local CDS, a man aged 45 and a woman aged 54, were assassinated by mercenaries.

December 6, 1982 — In La Tronca, Matagalpa, some 15 mercenaries kidnapped 8 members of one family, including 4 members of the militia.

December 6, 1982 — Mercenaries burned the offices of ENCAFE at Bulbul, Matagalpa.

December 13, 1982 — In the district of Las Penitas, Jinotega, a band of 90 mercenaries burned the building used by the local militia and assassinated a campesino and a member of the Army.

December 13, 1982 — In the communities of El Naipe and Nasawas, 5 armed mercenaries kidnapped and later assassinated 2 members of the military reserve.

December 18, 1982 — A band of mercenaries appeared at the El Jicaro farm in the Saiz district, kidnapping a father and one of his sons. The other members of the family were beaten.

January 1, 1983 — Mercenaries kidnapped 7 people, including 5 children, in the Chaguital sector near the Honduran border.

In separate attacks, a band of 30 to 40 mercenaries armed with rifles invaded the town of San Rafael, kidnapping 67 people (10 families). Also, at La Sabana, near Somoto, some 30 mercenaries blew up an electric transmission post with plastic explosives, leaving the town without power.

January 3, 1983 — Seven mercenaries armed with shotguns, rifles and pistols invaded the community of Labu, Siuna, killing a 65-year-old woman who headed the local CDS and a man who belonged to the Popular Sandinista Army. The bodies showed signs of torture, and their throats had been cut. The mercenaries also kidnapped 2 members of the military reserve.

January 5, 1983 — Thirteen mercenaries seized the militia post in the district of Wana Wana, killing 2 brothers who were members of the militia and burning the house of their father, a CDS member. The mercenaries also burned a schoolhouse which served as a command post. Two people were wounded.

January 7, 1983 — A band of approximately 40 mercenaries assassinated 2 members of a brigade of volunteers organized by the Managua CDS who were harvesting coffee at the El Amparo farm in the sector of Cerro Helado, Jinotega. One person was wounded.

January 8, 1983 — At 4:30 in the morning, a group of 15 mercenaries armed with rifles, grenades and mortars invaded the San Francisco sector south of

Jalapa, kidnapping 2 sons and a daughter from one family. The kidnapped woman was the co-ordinator of the local center for popular education. The mercenaries also kidnapped an employee of the same family.

January 10, 1983 — A mercenary unit invaded the Santa Julia farm in the community of San Gregorio, kidnapping 3 members of a Sandinista youth organization who were taking part in volunteer work brigades for the coffee harvest. It is not known where they were taken.

January 11, 1983 — At Las Cruces, a group of 60 to 100 mercenaries burned 3 vehicles, including a MICONS truck. On the same day, at Hacienda San Roque, Asturias, a band of 200 mercenaries armed with rifles and grenade launchers burned another truck belonging to MICONS.

January 12, 1983 — Mercenaries ambushed an INRA pick-up truck in the Punta Mico sector, killing 2 INRA technicians and wounding another. A Master Sergeant in the Popular Sandinista Army was also wounded.

January 13, 1983 — A group of 20 mercenaries armed with rifles and grenade launchers ambushed a military truck and an INRA pick-up truck in the Francia Sirpi sector, killing 3 people and wounding 4 others.

January 16, 1983 — Mercenaries armed with rifles and mortars ambushed a State truck in the Namasli sector, killing 2 boys, aged 11 and 12, residents of Jalapa. Eight people were wounded.

January 21, 1983 — In El Amparo valley, near Yali, a group of mercenaries armed with rifles and grenade launchers ambushed a pick-up truck in which civilians and soldiers were traveling, killing 4 civilians (one of them an 8-year-old girl) and 2 soldiers. Six people were wounded.

January 24, 1983 — Five mercenaries armed with rifles appeared at a house in Las Quebradas, stating that it was their intention to kidnap a certain member of the Auxiliary Forces. Not finding him at home, they kidnapped his wife and held her for four days while they interrogated and raped her. They then released her, threatening her with death if she denounced them.

January 29, 1983 — A band of mercenaries attacked the headquarters of the militia at Walakawas, killing 7 people and wounding 1. One woman was missing.

February 3, 1983 — Some 60 mercenaries invaded the community of Bella Vista, Nueva Segovia, kidnapping 21 residents of the community.

February 7, 1983 — A group of 60 mercenaries armed with rifles and heavy machine guns kidnapped 11 coffee cutters in the sector of El Ural. The mercenaries retreated toward Honduras.

February 10, 1983 — A group of 20 mercenaries armed with pistols and rifles kidnapped 2 campesinos at Santo Domingo, near Jalapa, taking them toward Honduras.

February 19, 1983 — A mercenary military unit invaded the zone of Santa Maria de los Cedros, kidnapping 3 people who worked for the office of State Security. One woman who was kidnapped was raped by more than 60 mercenaries.

February 23, 1983 — At Santa Elena, Nueva Segovia, mercenaries ambushed a truck carrying members of the military reserve, killing 9 and wounding 3.

February 24, 1983 — At Rancho Grande, a mercenary military unit captured 2 civilian members of the military reserve and assassinated the head of the local militia squadron.

February 26, 1983 — A group of approximately 100 mercenaries armed with rifles, grenade launchers, and mortars invaded the district of Canada La Castilla, Jinotega, kidnapping 20 campesinos from one co-operative and killing the leader of the local militia.

February 27, 1983 — Approximately 200 mercenaries armed with rifles, machine guns, mortars, and grenade launchers attacked the militia post at San José de las Mulas, killing 20 civilian members of the militia and wounding 10. Most of the casualties were members of a Sandinista youth organization. Before retreating the mercenaries also burned the schoolhouse and a health center.

March 1, 1983 A group of 100 to 150 mercenaries attacked the army command post at San José de Las Mulas with rifles, heavy machine guns, grenade launchers, rocket launchers, and mortars, completely destroying it. Sixteen soldiers were killed and an undetermined number were injured.

In separate attacks, a group of mercenaries invaded the Escambray sector, kidnapping 2 campesinos. Also, mercenaries kidnapped 2 residents of San José de Las Manchones.

March 4, 1983 Two hundred mercenaries invaded the zone of Cerro Colorado, burning the Santa Rosa State farm and kidnapping 3 civilian members of the militia.

March 5, 1983 Eighty mercenaries seized the San Carlos farm near Muy-Muy, Matagalpa, burning the farmhouse and kidnapping the farm manager. Later they kidnapped 2 campesinos at the Santa Rosa farm.

March 6, 1983 Some 150 mercenaries armed with machine guns, rifles, and rocket launchers seized the community of Kaskita, Zelaya Norte, for 3 hours, kidnapping 4 people. In the ensuing combat, a civilian member of the local militia was killed.

March 10, 1983 A group of mercenaries ambushed a jeep at Puente Rio Viejo, Matagalpa, killing 8 people, 5 of them campesinos from the El Castillo Co-operative.

In a separate attack, a group of 200 to 300 mercenaries burned 2 MICONS trucks near Rio Blanco, Matagalpa.

March 11, 1983 A group of mercenaries kidnapped 31 members of the community of Esperanza, Zelaya Norte.

March 12, 1983 A group of 150 mercenaries assassinated 5 members of a popular education committee who were meeting in a school in the El Jicaro district.

March 14, 1983 Mercenaries kidnapped 4 CDS members at San Francisco, department of Boaco.

March 15, 1983 Five mercenaries assassinated 2 campesinos in the sector of Valle Datanli, near Jinotega. In a separate attack, in the community of El Cuje, a group of 25-30 mercenaries armed with rifles and grenade launchers burned an INRA pick-up truck and kidnapped the local CDS co-ordinator and 4 civilian members of the militia.

March 18, 1983 Mercenaries intercepted and burned an INRA pick-up truck near San Jose de Los Remates, Boaco; its 3 passengers are missing. In a separate attack, approximately 300 mercenaries invaded the locale of El Achiote, Yaoska, kidnapping 2 people who worked with the FSLN.

March 21, 1983 Near Valle El Naranjo, 60 well-armed mercenaries kidnapped 7 people, including 2 employees of the National Development Bank.

March 23, 1983 A pick-up truck belonging to the State enterprise "Filemon Rivera" was ambushed in Las Canarias, municipality of Limay. Two members of the Popular Sandinista Army were killed and 5 were wounded.

In a separate attack, mercenaries burned a warehouse in the El Chaquiton complex at Pueblo Nuevo, Esteli, resulting in losses of up to 1 million cordobas.

March 26, 1983 Two hundred mercenaries attacked the district of Rancho Grande with mortar fire, killing 2 members of the militia, 2 other Nicaraguan civilians and a French doctor. Seventeen people were wounded, including 7 children and 3 Ministry of Interior workers. On their retreat the mercenaries burned a house in Canada La Castilla.

March 27, 1983 — Thirty mercenaries ambushed an ambulance of the Modesto Agurcia Hospital near San Fernando, Nueva Segovia, killing the driver.

In separate attacks, mercenaries kidnapped 7 campesinos from Buena Vista de Ventanilla, near Wiwili. The following day another group of mercenaries kidnapped 6 campesinos from the nearby La Pita district.

Also, 40 mercenaries appeared at the community of El Carbon, Ciudad Antigua. Falsely identifying themselves as members of the Popular Sandinista Army, they kidnapped 3 members of one family.

March 28, 1983 — Mercenaries kidnapped 3 campesinos in the Las Canas sector.

March 30, 1983 — Mercenary forces attacked Nicaraguan troops who were guarding the community of Santa Clara, killing 12 soldiers and wounding 11. Two were listed as missing.

In a separate attack, mercenaries attacked the Quinta del Carmen State farm near San Juan de Rio Coco, killing 3 civilian members of the militia and wounding another.

April 6, 1983 — The body of Adilia Martinez Alvarez, an official of the Vice-Ministry for Adult Education, was found near Boaco. She had been kidnapped by mercenaries 17 days previously.

April 7, 1983 — The State Security post at Bana was attacked; 4 people were killed and 4 were wounded, all of them employees of that agency. In a separate attack, 12 campesinos were kidnapped by mercenaries in the sector of Mozonte, Nueva Segovia.

April 8, 1983 — Mercenaries attacked the State farm at Los Laureles, Jinotega, killing the manager and burning 2 trucks and a jeep. In the ensuing battle, 11 Nicaraguans (including 4 civilians) were killed and 19 were wounded.

In separate attacks, 60 to 80 mercenaries armed with rifles robbed the health center at La Movil of all of the medicines it contained. Also, a detachment of mercenaries attacked the town of Ciudad Antigua, Nueva Segovia, with rifle fire and rocket launchers. Three people were wounded and the local health center was partly destroyed.

In another attack, 12 mercenaries broke into a campesino's house at Cano Wilson, near El Rama, raping his sister and beating him and his parents.

April 10, 1983 — A group of 10 mercenaries attacked a boat used for the "Inter-Terrestre" canal project near Bluefields, Zelaya Sur, assassinating 2 people and kidnapping 3 others.

April 11, 1983 — A group of 90 to 100 mercenaries armed with rifles, mortars, grenade launchers and machine guns attacked the La Colonia State farm near La Presa Mancotal. After burning the farmhouse to the ground, they kidnapped a woman teacher (a Salvadoran national) from nearby Santa Isabel.

April 12, 1983 — Mercenaries destroyed the Rural Infants' Service center at the La Colonia State farm; a campesino family that lived in the center is missing.

April 13, 1983 — A group of mercenaries intercepted a vehicle in which the chief of the police sub-station at Palacaguina was riding, killing him and wounding a campesina.

In separate attacks, 60 mercenaries burned two INRA vehicles in the Los Ranchos sector, and 30 mercenaries burned a bridge at Salamanji, Nueva Segovia.

April 14, 1983 — In El Cocal, Zelaya Sur, a group of mercenaries seized an INRA motorboat, kidnapping 5 people, including the zonal administrative manager for INRA and an administrative assistant.

In a separate attack, mercenaries ambushed a civilian truck in the Achuapa sector, killing 2 people and wounding 2 others. They also burned 3 State vehicles.

Also, in La Pedrera, Zelaya Norte, a group of approximately 35 mercenaries ambushed a pick-up truck, killing 4 civilians.

April 16, 1983 — Mercenaries assassinated the manager for UNAG at El Pantasma, one day after he was kidnapped.

April 17, 1983 — In combat with mercenary forces in the La Flor sector, 6 Nicaraguan Government soldiers were killed and 3 were wounded.

April 18, 1983 — Sixty mercenaries invaded the sector of Chusli, near Jalapa, kidnapping a member of the Popular Sandinista Army and 2 campesinos.

April 19, 1983 — Fourteen mercenaries armed with rifles and rocket launchers invaded the Vado Ancho sector, cutting the throat of a civilian member of the militia and kidnapping 12 other civilians, among them 4 health-care workers and 5 children.

In a separate attack, mercenaries kidnapped 30 campesinos in the Monte Frio sector, near Jalapa.

April 21, 1983 — In the vicinity of Cerro El Toro, near Wina, a group of mercenaries kidnapped 3 people who worked as technicians at the Siuna mines; they also burned the vehicle in which they had been travelling.

In a separate attack, approximately 200 mercenaries surrounded 35 Nicaraguan troops in the area of Cerro Chachagon, killing 12 and wounding 5. Two soldiers were listed as missing.

April 22, 1983 — Approximately 80-100 Miskito mercenaries armed with rifles, rocket launchers, mortars and other weapons attacked the town of Slilmalila, Zelaya Norte, kidnapping a group of IRENA technicians and damaging the facilities of INRA, IRENA, the medical dispensary, and the Office of Transport of that community.

April 24, 1983 — A group of 200 mercenaries burned a MICONS truck and assassinated the driver in the Las Canas sector, near Wiwili.

April 25, 1983 — Mercenaries from the Benito Bravo task force ambushed a pick-up truck at La Belleza, near San Juan de Rio Coco, killing the local head of the Farm Workers' Association.

April 28, 1983 — Sixty mercenaries kidnapped 8 tractor drivers between Las Uvas and Las Mercedes, 4 of whom managed to escape.

April 29, 1983 — In the district of Cruz Verde, 5 armed mercenaries robbed and kidnapped Alberto Rodriguez, the local UNAG co-ordinator and ENABAS manager.

April 30, 1983 — Mercenaries ambushed 3 MICONS vehicles, killing 16 people, including 8 civilians. One of the civilians killed was a German doctor who had been making his services available to the Nicaraguan people. Also killed was a member of the Jinotega regional FSLN committee.

May 2, 1983 — In Achuapa, a group of 100 mercenaries led by former National Guardsman Maximo Marin intercepted 9 vehicles, kidnapped 47 people who were riding in them, and burned 2 vehicles belonging to IRENA. In a separate attack, an ambulance of the Popular Sandinista Army was ambushed at Macarali, Nueva Segovia; 2 people were killed and one was wounded.

May 5, 1983 — In the Zacateras sector, mercenaries killed 6 members of the Popular Sandinista Army and kidnapped 9 civilians. In a separate attack, a group of 15 mercenaries killed 2 campesinos in the Kuskawas sector.

May 6, 1983 — Approximately 200 mercenaries invaded the El Galope State farm near Rancho Grande, assassinating the TELCOR service manager and kidnapping 8 campesinos. They also burned a TELCOR vehicle, a tractor and a warehouse with a large quantity of tools. In a separate attack, in La Dalia, Jinotega, 60 mercenaries ambushed a TELCOR jeep, killing the assistant manager of the TELCOR project in that zone.

May 7, 1983 — In Totogalpa, near Ocotal, mercenaries attacked the granary and destroyed a grain storage tank with a rocket. The command post at Macarali was also attacked; 10 soldiers were killed.

May 8, 1983 — A group of approximately 60 mercenaries armed with rifles, mortars and machine guns attacked the militia unit at Las Papayas, killing 2 civilian members of the militia and wounding another. They also took away 18 other members of the militia with their equipment and 60 other persons, together with 80 head of cattle.

May 9, 1983 — In the district of La Laguna, Nueva Segovia, a band of approximately 30 mercenaries kidnapped 17 campesinos and took them to Honduran territory.

May 12, 1983 — A group of 15 mercenaries kidnapped 6 campesinos from the district of El Ocote.

May 17, 1983 — Fifty mercenaries kidnapped 20 campesinos in the Las Canas sector. Also, in separate attacks, 20 mercenaries invaded the Cerro las Torres sector, Nueva Segovia, burning a tractor belonging to the State, and two campesinos were kidnapped from the San Pablo de Kubali farm in the jurisdiction of Waslala.

May 21, 1983 — Nicaraguan troops battled a force of 1,000 to 1,200 mercenaries in the vicinity of Jalapa in combat lasting until May 23, 1983. Twenty-three Nicaraguans were killed and 51 were wounded.

May 22-24, 1983 — Thirty mercenaries kidnapped 4 campesinos at Bilwas, among them a member of the local CDS. They also burned the building used by the local Reserve Battalion.

May 25, 1983 — In the Las Tiricias sector, on the Rio San Juan, a boat carrying 3 West German journalists was attacked by mercenaries. All 3 journalists were kidnapped (one of them wounded) and 2 members of their military escort were killed. Four soldiers were wounded.

June 1, 1983 — Approximately 120 mercenaries invaded the communities of Las Barandas, Guavabo, Kaskita, Platano, and Puerto Cabezas, kidnapping 7 campesinos and a member of the Popular Sandinista Army.

June 2, 1983 — Twenty-three mercenaries armed with rifles, machine guns and grenade launchers kidnapped a family of 9 at Las Carranzas, near Somoto.

June 4, 1983 — A band of 45 mercenaries armed with rifles and machine guns invaded the community of Sarawas, kidnapping 3 persons.

June 5, 1983 — A detachment of mercenaries invaded the State farm of Lisawe, Pio Blanco, Matagalpa, kidnapping 3 civilian members of the militia from that sector. On their retreat the mercenaries burned and looted the State farm there; the losses are valued at over 1 million cordobas.

In separate attacks, a mercenary military unit kidnapped 60 campesinos from the Pita del Carmen zone, and mercenaries attacked the town of Teotecacinte, killing 3 people, injuring 3 others, and destroying 8 houses.

Also, a force of 500-600 mercenaries seized the El Porvenir sector after a 15-hour battle, taking 50 Nicaraguans with them to Honduras. Nineteen people were listed as missing.

June 6, 1983 — Mercenaries dynamited the bridge at Salamanji, Nueva Segovia, completely destroying it. In a separate attack, a group of approximately 60 mercenaries armed with rifles, grenades, and machine guns, invaded the community of Kuikuinata, kidnapping 3 people.

June 8, 1983 — Between 7 a.m. and 4:20 p.m., Nicaraguan troops battled mercenaries in the sectors of El Porvenir, El Suice, Murupuchi, and Teotecacinte. Five Nicaraguans were killed and 14 were wounded; in addition, the mercenaries burned the sawmill at Santa Clara, near Teotecacinte.

In a separate attack, mercenaries blew up 2 electrical transmission posts at Maderas Negras, Chinandega.

June 10, 1983 A group of 50 mercenaries intercepted a pick-up truck belonging to the State lumber company and an IRENA jeep at a bridge on the Dipilto highway. They blew up the pick-up truck on the bridge with C-4 explosives, damaging the bridge and completely destroying the truck. They also kidnapped 7 people, including a woman nurse and two IRENA employees.

June 11, 1983 Approximately 150-200 mercenaries supported by mortars and rifle fire attacked the town of Ciudad Antigua, Nueva Segovia, kidnapping 4 persons and burning a store, the health center, and the headquarters of the militia. They also cut the electric and telephone lines.

June 12, 1983 In the La Pita sector, a group of 13 mercenaries ambushed a pick-up truck in which 7 civilians and a soldier were traveling. One civilian was killed and the other occupants were wounded.

June 18, 1983 Mercenaries burned 48 trucks in the MICONS installation at Isla del Gato. They also looted the storehouses, destroyed equipment, and painted FDN slogans.

June 25, 1983 Mercenaries kidnapped the manager of the La Patriota farm near Matiguas, Matagalpa.

July 2, 1983 Mercenaries ambushed a jeep from INE, killing 1 person and wounding 2 others.

July 3, 1983 A group of 100 to 120 mercenaries divided into two groups and armed with rifles, heavy machine guns, mortars, and grenade launchers attacked the community of Sinsin and the bridge there. One group placed an explosive charge on one of the columns supporting the pavement, damaging it. The second group attacked the community of Sinsin itself, killing an old man and wounding 3 children under 5 years of age.

July 4, 1983 At Kiwa, Zelaya Central, a group of 60 mercenaries armed with rifles and hand grenades ambushed 15 people who were traveling on two boats on the Rio Grande, killing 5 people. Three soldiers were kidnapped and 7 were wounded. The mercenaries took away the boats and the bodies of the people they had killed.

In a separate attack, a group of 70 mercenaries kidnapped 18 campesinos from Oyote, department of Madriz, and took them to Honduras.

July 5, 1983 A group of approximately 40 to 60 mercenaries assassinated 2 civilian members of the militia and a member of the border patrol at Macuelizo, near Ocotal.

July 6, 1983 Mercenaries attacked the port of Santa Isabel, Zelaya, damaging the electric plant and an aircraft of the Nicaraguan air force.

July 10, 1983 Mercenaries ambushed a boat at Boca Tapada, Zelaya Sur, killing 4 people including the boat's captain. One woman was injured.

July 11, 1983 A group of 40 mercenaries burned 2 trucks belonging to the State at El Cerro El Toro. Two military people who were riding on the trucks were kidnapped.

July 16, 1983 A group of mercenaries blew up 3 electric transmission towers between San Juan de Limay and Pueblo Nuevo, Esteli, leaving Condega, Pueblo Nuevo, Somoto, Limay, Ocotal and Jalapa without electric power.

July 20, 1983 A group of 30 mercenaries raked an INE vehicle with automatic-weapons fire, killing the driver, an electric-company employee.

In a separate attack, at El Carmen, near San Juan de Rio Coco, mercenaries kidnapped the mother of the head of the local militia and burned a farmhouse.

July 21, 1983 A group of about 20 mercenaries burned the State farm at Daraili.

July 23, 1983 — A group of mercenaries invaded Pena del Jicote, Chinandega, kidnapping 9 persons and taking them toward Honduran territory.

July 24, 1983 — A group of mercenaries intercepted a truck and a jeep near Las Manos, Nueva Segovia, kidnapping 3 civilians and taking them toward Honduras.

July 28, 1983 — Mercenaries kidnapped 4 campesinos in the sector of El Águacate, near Ococona.

July 29, 1983 — Three hundred mercenaries assassinated 2 civilians who were members of the militia.

July 30, 1983 — Government forces fought approximately 15 to 20 mercenaries in the district of La Escalera. On their retreat the mercenaries kidnapped 8 campesino families from the area.

July 31, 1983 — A group of mercenaries burned the school and hermitage of Águas Calientes, near San José de Bocay.

August 2, 1983 — In Region I of San Rafael del Norte, a group of mercenaries ambushed a vehicle of the Ministry of the Interior from Esteli. Two people were killed and 3 were wounded.

In a separate attack, 30 mercenaries ambushed an INRA jeep between Telpaneca and Los Ranchos, Nueva Segovia, killing an INRA technician and wounding 4 people, including a woman and a child.

August 3, 1983 — A group of 20-30 mercenaries ambushed members of the border patrol at Santa Emilia, killing one Nicaraguan and kidnapping another.

August 7, 1983 — A group of mercenaries kidnapped a campesino in the sector of Las Canas; later, they kidnapped 2 other Nicaraguans in the El Limon sector.

August 9, 1983 — A group of mercenaries ambushed a MICONS tractor near Morrillo, assassinating a worker and kidnapping 25 people.

August 10, 1983 — A group of mercenaries ambushed a pick-up truck used for public transportation at Valle Los Cedros. Of the 18 people riding on the truck, 15 were assassinated.

August 12, 1983 — A group of mercenaries burned 2 MICONS trucks at La Flor. Later, the same group ambushed a truck carrying government troops; 3 were killed and 2 wounded.

August 14, 1983 — Approximately 60-80 mercenaries ambushed government troops at Sairinlaya, Zelaya Central, killing 18 soldiers, wounding 12 and beating 7.

August 15, 1983 — At San Rafael del Norte, the headquarters of the Sandinista Police were attacked. One person was killed and 1 was wounded. In a separate attack, 2 people were kidnapped in the La Loma district.

August 16, 1983 — A group of mercenaries kidnapped 2 campesinos at El Lecher.

August 18, 1983 — A group of 18 mercenaries kidnapped 11 campesinos from Los Caracoles.

August 22, 1983 — Mercenaries destroyed the bridge at Wilikon, on the highway connecting Siuna with Rio Blanco.

August 29, 1983 — A large group of mercenaries invaded the community of Ubu, burning an electric plant, 2 tractors and 6 other vehicles, 18 barrels of fuel, desks, documents, and other equipment belonging to the COREXSA Company installation there. They also painted slogans alluding to the mercenary task force "San Jacinto".

August 30, 1983 — Mercenary forces attacked the town of San Pedro de Potrero Grande with mortars, rifles and heavy machine guns. Two people were killed and 3 were wounded.

In a separate attack, a group of 60-80 mercenaries burned 11 houses at the Santa Fe farm near San Carlos and kidnapped 11 campesinos who worked there.

August 31, 1983 Three mercenaries came to the house of a citizen of Negrowas, kidnapping 2 of his children, aged 7 and 15 years.

In a separate attack, a group of 80-120 mercenaries attacked the State farm at Abisinia, killing 2 people.

Also, mercenaries kidnapped 10 campesinos at Ohriwas and later killed 4 of them.

September 1, 1983 Mercenaries supported by 60 mm mortars and 75 mm cannons fought Nicaraguan troops at Barra Rio Maiz, killing 9 soldiers and wounding several others.

September 3, 1983 In the district of El Guayo, mercenaries kidnapped and then cut the throats of 18 campesinos; among the victims was a teacher for the Evangelical Committee for Aid and Development (CEPAD). They also burned 22 houses.

September 8, 1983 A Cessna 402 aircraft coming from the south dropped two 250-kilogram fragmentation bombs on Nicaraguan air force facilities, partly destroying air base offices and the Aeronica hangars. The aircraft finally crashed into the tower of the Augusto Cesar Sandino Airport after being hit by Nicaraguan anti-aircraft fire.

September 9, 1983 Two T-28 aircraft fired 2 rockets at Shell tanks containing flammable chemicals. Two tanks, one containing acetone and another hexane, were ruptured by shrapnel.

September 11, 1983 A group of 20 mercenaries attacked the co-operative at Chalmeca, Zelaya Sur, killing a civilian member of the militia and kidnapping 3 other persons. One person was wounded.

September 13, 1983 Mercenaries sabotaged the oil pipeline at Puerto Sandino; they also used explosives to damage part of the oil terminal used for tanker coupling.

September 15, 1983 Twenty mercenaries burned a coffee farm and a private house in El Zapote.

September 17, 1983 Mercenaries assassinated 2 campesinos at Aguas Rojas.

September 21, 1983 In the district of El Tabaco, mercenaries assassinated 4 campesinos who were members of the local militia. On the same day, 2 campesinos were kidnapped in the Paiwata sector.

In a separate attack, 150 mercenaries killed 6 people and wounded 6 others at the Ouipo co-operative in Siuna.

September 23, 1983 Mercenaries attacked the Yakalwas co-operative in the jurisdiction of Quilali, killing 4 people and wounding 7 others.

In a separate attack, 60 mercenaries ambushed Nicaraguan troops at El Chamorro, killing 10 soldiers. Twenty-four others were reported missing.

September 25, 1983 In Las Hatillas, a bus carrying a group of merchants from Managua was ambushed. Some of the passengers were beaten, and 2 immigration workers were reported missing.

In a separate attack, at Ocotal, mercenaries attacked members of the militia who were guarding a bridge south of the city and the facilities of IRENA. Two civilian members of the militia were killed and the bridge was partly damaged by an explosive charge placed by the mercenaries.

September 27, 1983 Approximately 100 mercenaries invaded the town of Ciudad Antigua, Nueva Segovia, cutting the telephone line, burning government offices, and painting FDN slogans. The town was defended by 16 civilians who were members of the militia, 1 of whom was killed and 1 wounded in the attack.

September 28, 1983 Approximately 80-100 mercenaries attacked the frontier posts of Penas Blancas and La Boca del Sapoá with rifle and mortar fire.

Three people (one immigration worker and 2 members of the border patrol) were killed and 9 were wounded. The customs offices and duty-free port at Penas Blancas were also destroyed.

October 2, 1983 Approximately 200-250 mercenaries ambushed a caravan of 5 trucks carrying MICONS workers at Cerro El Chile, kidnapping 29 people, including a Delegate for the FSDN in that zone.

October 3, 1983 A group of mercenaries ambushed an INRA pick-up truck at Cerro Blanco, near San Juan de Rio Coco, killing INRA technical workers.

In a separate attack, mercenaries kidnapped a group of campesinos at Terreno Grande, near Palacaguina.

October 9, 1983 Nine soldiers were killed and 4 were wounded in combat with mercenaries at Santa Pita, near Quilali.

In a separate attack, 8 mercenaries ambushed a pick-up truck carrying 12 persons in the Yolai sector. One person was killed and 2 were wounded.

October 10, 1983 A speedboat armed with M-50 machine guns and a 20-millimeter cannon fired on the fuel tanks at the Port of Corinto, setting 1 on fire. The fire spread to the diesel tanks at the port. A Korean tanker anchored at the Port was also fired on in the attack. A Korean seaman and a woman in the port area were injured.

In a separate attack, a group of mercenaries kidnapped a woman civilian at El Tablazon.

October 14, 1983 Mercenaries kidnapped two people in the community of Balsamo.

October 18, 1983 Beginning at 5:00 a.m., 400 mercenaries supported by 60-mm mortars attacked the town of Pantasma, killing 29 civilians and 18 soldiers. One person was reported missing. Also destroyed were 2 co-operatives, 8 tractors, 2 trucks, and the offices of INRA, ENCAFE, the National Development Bank, and other agencies.

October 18, 1983 A group of up to 40 mercenaries kidnapped 4 workers from the La Flor farm near Penas Blancas.

October 20, 1983 A group of approximately 50 mercenaries attacked the "Heroes and Martyrs" Co-operative of San José de Bocay, killing 2 people, among them a civilian member of the militia, and wounding 4 others.

In separate attacks, a speedboat armed with cannon fired on the docks at Puerto Cabezas, hitting a ship at anchor and wounding 11 civilians, among them 3 children. Also, mercenaries burned the Galilea farm at Guapinol and, near the town of Somotillo, mercenaries using C-4 explosives destroyed a tractor belonging to INRA.

October 29, 1983 Three hundred mercenaries invaded the community of Siawas, Zelaya Sur, kidnapping 2 popular-education co-ordinators.

October 30, 1983 Approximately 100-150 mercenaries burned the State farm at Las Delicias, wounding a civilian member of the militia.

November 2, 1983 Mercenaries kidnapped 9 campesinos from the locale of Macuelizo.

November 10, 1983 A group of approximately 30 mercenaries kidnapped 2 reservists at Las Palmitas Campuzano.

November 14, 1983 In the district of El Ojoche, 150 mercenaries attacked a militia post, kidnapping several civilians.

December 2, 1983 In Cano Dipina, Matagalpa, approximately 300 mercenaries attacked the local army command post, killing 17 people. An undetermined number were missing as a result of the attack.

December 5, 1983 Mercenaries burned a warehouse on the Monte Cristo farm of INRA at Yasica Sur, Matagalpa.

In a separate attack, 4 "Piranha" speedboats, supported by 3 aircraft, apparently Super Mystères, attacked 3 units of the Nicaraguan MGS in Nicaraguan waters 5 miles north of Punta Consiguina, killing 1 person and wounding 4.

December 11, 1983 — A group of 100-150 mercenaries attacked the facilities at Playwood, in Cano de Agua, burning equipment and completely destroying the physical plant.

In a separate attack, mercenaries ambushed a boat near Barra Punta Gorda, Zelaya Sur, killing 3 people and wounding 5.

December 16, 1983 — A group of mercenaries attacked the collective at El Valle Los Cedros, killing 8 people, burning 8 trucks, and kidnapping a woman nurse and 4 campesinos.

December 17, 1983 — A group of mercenaries invaded the encampment of INRA near the Punta Gorda frontier post, kidnapping all of the personnel there.

December 18, 1983 — Approximately 300 mercenaries attacked the settlement of Rio Coco, killing 16 civilian members of the militia and totally destroying the settlement.

In a separate incident, 200 mercenaries attacked the town of Wamblan, killing 5 people.

Also, 7 members of the militia and 4 other civilians were killed in combat with a mercenary task force in the San Bartolo sector.

December 19, 1983 — In the sector of Los Perdenales, 21 people were killed in combat with members of a mercenary task force.

In a separate attack, mercenaries burned the Santa Ana farm near the Colon frontier post and kidnapped the entire family.

December 20, 1983 — Some 500 mercenaries attacked the district of El Cua, killing 9 people and wounding 16.

In a separate attack, mercenaries kidnapped a large number of people from the town of Francia Sirpi, near Tronquera. Among those kidnapped was a priest, Salvador Schaffer.

December 23, 1983 — Approximately 30 mercenaries ambushed a civilian pick-up truck in Las Playitas, kidnapping 2 workers for ENCAFE.

December 25, 1983 — Eighty mercenaries kidnapped 20 campesinos in the El Rosario sector and took them to Honduras.

January 3, 1984 — Mercenary forces ambushed 12 people who were going by boat on the Torsuany River south-west of Bluefields. Two Nicaraguans were killed, 2 wounded and 3 missing.

January 5, 1984 — At 12:40 a.m., "piranha" boats fired on Puerto Potosi, killing a civilian member of the militia and wounding 2 others. Two customs workers were also wounded.

January 9, 1984 — Approximately 20 mercenaries mined the highway between Mozonte and San Fernando. One of the mines destroyed a civilian truck, killing the driver.

January 12, 1984 — Approximately 30 mercenaries kidnapped 12 campesinos from the locale of Tito Izaguirre.

January 15, 1984 — Approximately 60 mercenaries kidnapped 2 Nicaraguans north-west of Dipilto.

January 25, 1984 — In the Wilike sector, approximately 20 mercenaries ambushed a pick-up truck from the Ministry of Construction, killing 2 civilians and wounding 8.

January 30, 1984 — Approximately 60 mercenaries invaded the town of Pueblo Nuevo, jurisdiction of Atlanta, Zelaya Sur, kidnapping 5 civilians who were members of the militia.

February 2, 1984 Six A-37 and Push and Pull airplanes penetrated Nicaraguan air space and fired rockets in the vicinity of the Casita volcano. One of the rockets detonated some barrels of fuel, killing 3 soldiers and injuring others.

February 7, 1984 Approximately 50 mercenaries ambushed a civilian truck near La Azucena, injuring 9 civilians, including two pregnant women.

February 14, 1984 Mercenaries invaded the community of Waspado, kidnapping 5 persons.

February 16, 1984 A fishing boat (*El Pescasa* No. 22) exploded 2 mines set opposite the Pescasa dock. Three of the 5 crew members were wounded and 2 were missing.

In a separate attack, approximately 35 mercenaries kidnapped 10 workers north-east of Atlanta.

February 20, 1984 Approximately 30 mercenaries kidnapped 5 campesinos at Playa Hermosa and El Cedro.

February 21, 1984 A group of mercenaries kidnapped 30 campesinos at Cano La Cruz.

February 25, 1984 Mercenaries burned a warehouse of ENCAFE in the vicinity of Chachagon hill.

March 2, 1984 Mercenaries assassinated 2 workers in the Ruben Dario district, cutting out their hearts and feeding them to dogs.

March 4, 1984 Approximately 50 mercenaries kidnapped 5 campesinos in San Pedro, near San Jose de Bocay.

March 5, 1984 A group of mercenaries assassinated a member of the FSLN south of Nueva Guinea.

March 8, 1984 The Panamanian ship *Los Caribes* hit a mine in the Port of Corinto, injuring 3 persons and seriously damaging the ship.

March 9, 1984 In Cano Mollejones, a group of mercenaries assassinated 5 campesinos.

In separate incidents, mercenaries kidnapped 25 civilians who were traveling in a MICONS boat in the Siwas canal near La Cruz de Rio Grande. Also, mercenaries kidnapped 3 civilian members of the militia in La Pedrera.

March 11, 1984 Approximately 100 mercenaries burned houses in Copapar and killed 3 civilians in Perro Mocho.

March 11, 1984 Approximately 60 mercenaries assassinated 5 campesinos in Fila Los Mojones.

March 12, 1984 Fifty mercenaries invaded La Cuesta El Guayabo, killing 2 people, kidnapping 4 others, and burning a truck.

March 16, 1984 Seventy mercenaries kidnapped 3 civilians in San Ramon, and later kidnapped 13 civilians from the Las Hatillas sector.

March 18, 1984 A group of mercenaries kidnapped several campesinos from San Jose, near San Juan de Limay, and retreated to Santa Martha, where they kidnapped 11 more campesinos.

March 19, 1984 In the Chaguiton sector, a group of mercenaries ambushed and killed 15 reservists.

In a separate attack, approximately 150 mercenaries ambushed Government troops at El Plantel, near San Sebastian de Yali, killing 16 soldiers.

March 20, 1984 The Soviet tanker *Lugansk* was damaged by an explosion caused by a mine set near the buoys at Puerto Sandino. Five people were injured.

In a separate attack, 200 mercenaries kidnapped 2 civilians at La Patriota, Matagalpa.

March 24, 1984 Fifty mercenaries invaded Quebrada El Agua, kidnapping an adult-education worker.

March 25, 1984 A group of mercenaries ambushed a MICONS truck in Cuesta Las Brisas, kidnapping all of its occupants.

In a separate attack, approximately 100 mercenaries killed 5 people and kidnapped 13 others at the Las Brisas co-operative.

March 26, 1984 One hundred mercenaries attacked the State farm at El Arco near San Sebastian de Yali, killing 23 civilians who were members of the militia.

March 26, 1984 Sixty mercenaries ambushed 3 trucks in which government troops were traveling, killing 21 soldiers and burning the 3 trucks.

March 28, 1984 The British merchant ship *Indexchaser*, which was carrying a cargo of molasses from the Port of Corinto, was damaged by a mine. Later, the ship *Aracely Perez*, which was sweeping mines at that Port, hit another mine and was also damaged.

March 29, 1984 Approximately 300 mercenaries attacked the border post at Sandy Bay, kidnapping 80 residents of the town, killing 4 people and wounding 8.

March 30, 1984 The fishing boat *Ama Sultana* exploded an object of undetermined manufacture as it was carrying out minesweeping duties between buoys 1 and 2 of the Corinto channel. The hull and other parts of the boat were damaged, and it sank completely after being towed to the dock.

Also, an explosion damaged the Japanese merchant ship *Terushio* as it was entering the Port of Corinto escorted by two vessels which were sweeping for mines.

April 1, 1984 Approximately 35 mercenaries attacked the Serrano district, killing the local police chief and kidnapping the head of the local CDS.

In a separate attack, 60 mercenaries attacked the Colonia Fonseca, near Nueva Guinea, killing 2 Nicaraguans and wounding 11.

April 2, 1984 A group of mercenaries burned 2 houses and killed a child at Santa Cruz, near Quilali.

April 3, 1984 Approximately 300 mercenaries simultaneously attacked the town of Waslala and 2 nearby bridges. At least 16 Nicaraguans were killed and 34 wounded. Fifteen people were missing.

April 4, 1984 Some 150 mercenaries armed with rifles and machine guns attacked and burned the State farm at La Colonia, near San Rafael del Yali, killing 6 Nicaraguans.

April 5, 1984 A group of mercenaries ambushed 3 State trucks near Kusuli, kidnapping the civilian occupants of the vehicles and burning the trucks. They also burned the school at Kusuli.

In a separate attack, mercenaries assassinated a civilian member of the militia and kidnapped 30 campesinos from Laguna Verde. They retreated toward El Morado hill, where they assassinated an adult education teacher.

April 6, 1984 Approximately 30 mercenaries burned houses and health centers in Valle El Guadalupe sector.

April 7, 1984 A specialized group of mercenaries blew up 2 electrical transmission towers at the Santa Rosa farm, near Chinandega.

April 8, 1984 Mercenaries invaded the community of Maciwatla, kidnapping 15 people.

April 9, 1984 A group of mercenaries kidnapped 12 campesinos at La Pita.

April 10, 1984 Mercenaries kidnapped 15 campesinos near Valle El Cua.

In a separate attack, mercenaries attacked the ENABAS post in the Kurinwas sector, near Nueva Guinea, assassinating 4 members of a co-operative, kidnapping one person and taking 500,000 cordobas.

April 13, 1984 Mercenaries sabotaged telephone transmission posts with C-4 explosives at Chaguite Grande.

In a separate attack, approximately 10 to 15 mercenaries blew up electrical transmission posts in the district of La Fonseca.

April 16, 1984 Approximately 150 mercenaries kidnapped 25 civilians at Teocintal hill.

In separate attacks, 40 mercenaries burned a State farm located at San Gabriel Hermitage, near San Sebastian de Yali. Also, 30 mercenaries ambushed a MICONS truck 4 kilometers south of Mulukuku, killing 2 civilians and wounding one.

In addition, 70 mercenaries attacked the settlement of Los Chiles, killing 3 civilian members of the militia and wounding 2 other people.

April 17, 1984 Approximately 400 mercenaries kidnapped 7 campesinos at San José de Kilambe.

In a separate attack, 300 mercenaries attacked the settlement of Sumubila with mortar and rifle fire, killing two policemen and kidnapping 27 civilians. The mercenaries also destroyed the headquarters of the Sandinista Police, the Health Center, the machinery of the cacao project and the INRA warehouses.

April 18, 1984 A group of mercenaries kidnapped 21 families at Wamblancito and took them toward Honduran territory.

April 19, 1984 Fifty mercenaries destroyed the State farm at La Paz, near San Sebastian de Yali.

April 23-24, 1984 Three mercenary task forces fought government troops in the La Rica District, killing 15 soldiers, kidnapping 3 campesinos, and destroying the local medical station, the militia headquarters and 2 houses.

April 24, 1984 Twenty mercenaries burned State farms at San Luis and Buena Vista.

April 25, 1984 Approximately 20 mercenaries ambushed an ENABAS truck south of Nueva Guinea, killing the driver and an assistant.

April 29, 1984 Seventy mercenaries burned the co-operative and a house located in Valle Santo Domingo.

May 1, 1984 Groups of mercenaries burned State farms at Las Brisas and La Esperanza.

May 2, 1984 The State-owned fishing vessel *Pedro Arauz Palacios* was destroyed by a mine in the Puerto Corinto access channel.

In a separate attack, four mercenaries dressed in uniforms of the militia invaded the community of Caño Azul, kidnapping 9 campesinos, including 2 minors.

May 4, 1984 Approximately 50 mercenaries kidnapped 9 campesinos at Colonia La Providencia, near Nueva Guinea.

In a separate attack, 60 mercenaries ambushed and burned a truck at the Sapoa bridge on the Limbaica highway, killing 3 Miskitos and wounding 2.

May 5, 1984 A group of mercenaries burned the State farm at Castillo Norte, killing 8 people.

In a separate attack, 8 mercenaries kidnapped 14 persons in the sector of Jocomico and took them toward Honduran territory.

May 7, 1984 One hundred mercenaries armed with rifles, machine guns, and mortars, attacked the border post and settlement of Palo de Arco, kidnapping 40 civilians. In addition, 6 civilians were killed and 3 were wounded when the mercenaries threw a grenade into a shelter.

In a separate incident, mercenaries attacked positions of the Sandinista Army at Palo de Arguito, killing 4 civilians, including 2 children. Also, mercenaries kidnapped a campesino at La Cabecera.

May 9, 1984 Six mercenaries kidnapped 2 civilian members of the militia in the Quebrada Las Pilas sector, later assassinating one of them.

May 12, 1984 In San José, near Quilalí, mercenaries burned a State farm.
May 13, 1984 Sixty mercenaries attacked the Jorgito district, killing 15 members of the militia.

In a separate attack, 400 mercenaries burned the La Ventana Co-operative in El Jilguero. One person was killed and 10 were missing.
May 14, 1984 A group of mercenaries attacked the Los Alpes State farm, killing 4 members of the Patriotic Military Service.
May 16, 1984 Approximately 500 mercenaries burned houses in the Robledor, Los Planes, and San Jeronimo sectors.
May 20, 1984 Forty mercenaries invaded the Suni Valley, assassinating a member of the voluntary police and kidnapping the local police chief.
May 23, 1984 A group of mercenaries attacked the El Garrobo co-operative near Waslala, burning 10 houses.

In a separate attack, 60 mercenaries kidnapped 11 families in the Tumarin sector, Zelaya Central.
May 24, 1984 Approximately 30 mercenaries kidnapped 2 members of the reserve at Caño Serrano.
May 26, 1984 A group of mercenaries kidnapped 4 campesinos in the Colonia La Providencia.
May 28, 1984 Approximately 250 mercenaries burned the Moises Herrera co-operative near San José de Bocay, later killing one civilian and kidnapping 7 others in the Bocaycito district.

In a separate attack, 100 mercenaries invaded Alamikamba, kidnapping 6 members of the militia and 40 other civilians and assassinating one member of the militia. They also attacked the local ENABAS post, from which they took 15,000 cordobas, and fired on 2 IRENA pick-up trucks.

Also, 300 mercenaries invaded Valle La Union, kidnapping 3 campesinos.
May 29, 1984 Sixty mercenaries invaded the Rapida La Guitarra community, Zelaya Central, assassinating 6 members of the military.
June 1, 1984 Mercenaries attacked the town of Ocotal, killing 16 Nicaraguans and wounding 27. In addition, the mercenaries burned the State lumber yard, the electric company building, the silos of ENABAS, the radio station, and other buildings.

In a separate attack, at Limbaica, mercenaries burned State facilities and kidnapped several civilians.
June 2, 1984 A group of mercenaries attacked the district of El Pajaro, kidnapping 3 people.

In a separate attack, mercenaries ambushed 2 trucks in the Las Brisas sector, killing 2 civilians, wounding 1, and kidnapping 3 others. In addition, the mercenaries burned 150 quintales of grain.
June 5, 1984 Mercenaries kidnapped 63 people in the localities of Alamikamba, Sumubila, La Agricola and Lapan.

In a separate attack, 10 mercenaries kidnapped 4 civilians at Brujil.
June 10, 1984 Mercenaries attacked a co-operative near Waswalita, killing 2 people and wounding 7.
June 11, 1984 A group of mercenaries attacked the border post at Wasla, Zelaya Norte, and kidnapped a civilian from the INRA farm there.
June 15, 1984 Approximately 30 mercenaries burned the "Oscar Benavides" Co-operative at El Cacao, near Sebaco; 6 vehicles were also burned.
June 16, 1984 Mercenaries kidnapped 30 campesinos in the Valle San Juan sector, near San José de Bocay.
June 20, 1984 In the district of Aza Central, Zelaya Norte, 12 mercenaries kidnapped 8 Nicaraguans.

June 25, 1984 C-4 explosives were placed on 2 railroad cars coming from Honduras which were transporting agricultural machinery for cotton. The explosives were detonated in the cotton machinery when the cars were, respectively, across from the Somoto granary and the El Espino Park. As a result the machines were partly destroyed and one person was injured.

June 29, 1984 A group of 100 mercenaries intercepted an INRA truck in Ocote Quipo, kidnapping 10 people.

June 30, 1984 Some 90 mercenaries took over the town of El Tortuguero, killing 8 civilians, including an old woman and a child. Seven soldiers were killed, with 5 wounded and one missing, and the local Health Center and offices of the National Development Bank were destroyed.

In a separate attack, mercenaries coming from Chachagua invaded La Bujona, kidnapping 15 people.

In addition, 250 mercenaries ambushed a truck in the El Barro sector, near Wiwili, killing 3 people and wounding 5.

July 1, 1984 In the sector of San Martin and San Ramon, a group of approximately 20 mercenaries ambushed a pick-up truck, killing 4 people. One person was wounded.

In separate attacks, mercenaries kidnapped 3 civilians from the farm of Francisco Herrera, in Cano Tomas, and 30 mercenaries kidnapped 6 people at Cano El Guayabo.

Also, in San Juan de Karahola, a group of mercenaries ambushed a boat which was on a project for INRA. Two people were killed and 4 were wounded.

In another attack, a group of 10 mercenaries invaded Brown Bank, assassinating Pedro Sambolas, who was the local schoolteacher and head of the militia.

July 2, 1984 Some 300 mercenaries ambushed a truck in the El Guale sector, near San Rafael del Norte, killing 13 people and wounding 9.

July 3, 1984 Approximately 250 mercenaries ambushed 3 MICONS trucks between Kubali and Puente Zinica, killing 3 people, wounding 3 and kidnapping 6.

In a separate attack, mercenaries invaded San Pedro de Asa, kidnapping 19 people.

July 5, 1984 Thirty mercenaries kidnapped 40 people in the town of Minisola.

In a separate attack, a group of mercenaries kidnapped 65 civilians.

July 6, 1984 Four hundred mercenaries kidnapped 9 civilians in Vigia Sur.

July 7, 1984 Mercenaries ambushed government troops at Valle Las Condegas, killing 18 soldiers and wounding 6 others.

In a separate attack, 70 mercenaries ambushed a truck at El Porvenir, killing 7 people and wounding 4. Two were reported missing.

July 8, 1984 A group of mercenaries invaded Las Conchitas, kidnapping 8 campesinos.

In a separate attack, 40 mercenaries ambushed a boat carrying troops toward Brown Bank, killing 7.

July 10, 1984 Mercenaries ambushed an IRENA truck in El Jocote, kidnapping one civilian and wounding another. In the sector of Los Alpes, the same group kidnapped 4 campesinos.

In a separate attack, mercenaries ambushed a pick-up truck south-east of Nueva Guinea, assassinating 4 civilians and wounding 4 others.

July 12, 1984 One hundred mercenaries attacked the settlement of Columbus, killing 2 members of the militia. They also kidnapped 6 members of the militia and 32 civilian young people and looted the shops and warehouses of ENABAS. The losses to ENABAS alone were calculated at 27,346.25 cordobas.

In a separate attack, mercenaries kidnapped 4 civilians in the El Jiguero sector. Also, in the El Achiote district, a group of approximately 30 mercenaries kidnapped 3 civilians.

July 13, 1984 A group of mercenaries kidnapped 11 campesinos from the vicinity of San Sebastian de Yali.

In a separate attack, 250 mercenaries burned the La Perla co-operative at Miraflor; one person was killed and another was reported missing.

In addition, mercenaries kidnapped a number of people from the settlement of Tasba Pri.

July 14, 1984 One hundred mercenaries kidnapped 3 campesinos in the zone of Fila Teocintal.

July 17, 1984 Approximately 180 mercenaries kidnapped 17 civilians and a second lieutenant at Helado hill, near San Sebastian de Yali.

July 19, 1984 Eighty mercenaries ambushed a truck in El Guabo, killing 3 citizens and wounding 10.

In a separate attack, mercenaries ambushed several military and civilian vehicles in the Paiwata sector, killing 4 people and wounding 5 others, and also sabotaged the electric and telephone lines.

July 20, 1984 Approximately 120 mercenaries ambushed a civilian truck with passengers and a pick-up truck of INRA in the sector of Fila Posolera, near Waslala, killing 4 people and kidnapping another.

July 21, 1984 Mercenaries assassinated Noel Rivera, a farmer from Matagalpa.

In a separate attack, mercenaries ambushed a civilian jeep in the sector of El Toro, Rio Blanco Copalar highway, killing 4 civilians and wounding 1. In addition they carried off a large quantity of cattle.

Also, 18 mercenaries attacked the district of Guadalupe, kidnapping 4 people.

In addition, mercenaries ambushed a truck at San Pablo de Kubali, killing 4 members of the militia and kidnapping 3 campesinos, including an 8-year-old boy.

July 23, 1984 Two hundred mercenaries attacked the town of San Martin with mortars and rifle fire, kidnapping 2 civilian members of the militia. Six others were missing. The mercenaries also burned the Martha Quezada co-operative.

July 25, 1984 A group of mercenaries assassinated 6 members of the Lopez family in Rio Yaoska.

In a separate attack, mercenaries killed 1 woman and kidnapped another at Salto Grande.

July 26, 1984 Sixty mercenaries invaded the town of Tapasle, killing 8 campesinos. Nine others were missing.

In a separate attack, a truck which was distributing fresh produce hit a mine placed by mercenaries at Bismona. Three soldiers were killed and 4 were wounded.

July 27, 1984 A group of mercenaries ambushed a vehicle in the Wilikon sector, wounding 3 people, among them the secretary of a local voting precinct.

July 28, 1984 A group of some 15 mercenaries attacked 6 people who were transporting voter registration documents in the sector of Santa Cruz; the mercenaries carried off the documents.

In a separate attack, 20 mercenaries ambushed 7 people who were transporting documents of the voter registration precinct in La Vigia; the mercenaries took the documents.

In addition, approximately 20 mercenaries kidnapped 5 people in the zone of Las Valles.

August 2, 1984 Thirty mercenaries invaded the settlement of Monte Creek, kidnapping 3 civilians.

In a separate attack, 30 to 40 mercenaries kidnapped 6 people from the INRA encampment at Parra Punta Gorda.

August 3, 1984 Approximately 5 mercenaries kidnapped 10 campesinos from El Ojoche.

In a separate attack, 30 mercenaries kidnapped 5 people at Pinbay. Among those kidnapped was Santos José Vilchez, President of the voter registration office there.

August 4, 1984 In the Layasiksa sector, some 150 mercenaries kidnapped 10 people, including 4 women.

August 6, 1984 Mercenaries penetrated the town of La Frangua, wounding Siriaco Tercero, a member of the militia, and carrying off 60 of his cattle.

August 7, 1984 Fifty mercenaries invaded El Morado, where they kidnapped 10 campesinos. They also took away voter registration cards and threatened to kill those who tried to vote in the elections.

August 12, 1984 Eighty mercenaries kidnapped 12 campesinos from the district of Quebrada El Agua.

In a separate attack, 200 mercenaries kidnapped 12 campesinos in California Valley and San Jeronimo.

August 13, 1984 A group of mercenaries attacked the El Paraiso co-operative, killing 2 members of the co-operative and kidnapping 3 others.

August 15, 1984 A group of mercenaries kidnapped 5 families at Waspuk, Zelaya Norte.

August 21, 1984 In the sector of Central Waspuk, a group of mercenaries kidnapped 9 Nicaraguans.

August 23, 1984 At the Jacinto Baca Co-operative at Santa Elena, 60 mercenaries killed 3 Nicaraguans and kidnapped 4 others.

August 24, 1984 Approximately 80 mercenaries ambushed a jeep in the Quebrada sector, kidnapping 6 people.

In a separate attack, 300 mercenaries kidnapped 15 campesinos in the El Guava sector.

August 25, 1984 A group of mercenaries kidnapped 14 merchants at Laguna Verde.

September 1, 1984 Groups of mercenaries ambushed pick-up trucks of CEPAD and TELCOR, killing 8 people and wounding 4 others. They also ambushed a truck from the Popular Sandinista Army which went to give assistance to the wounded; the driver of that vehicle was injured. Behind that vehicle was a truck with 15 soldiers who were coming as reinforcements. One of them was killed and 2 wounded.

In a separate attack, 8 mercenaries ambushed 2 unarmed militia members at the "Camilo Ortega" co-operative, killing one of them.

September 4, 1984 One hundred mercenaries kidnapped 5 campesinos at El Refugio. The next day the same group kidnapped 3 campesinos at Buena Vista de Ventillas.

September 5, 1984 Mercenaries intercepted a boat which was in transit from Karawala to Laguna de Perlas, kidnapping Ray Hooker, FSLN candidate for the National Assembly, and Patricia Delgado, Zonal Secretary of the FSLN for Laguna de Perlas.

In a separate attack, in the El Granadino district, a group of mercenaries kidnapped 7 civilians, including 2 members of the militia.

September 6, 1984 A group of approximately 60 mercenaries stopped a civilian pick-up truck in the La Laguneta sector, kidnapping 7 civilians and burning the vehicle.

September 7, 1984 Twenty mercenaries ambushed a boat with 4 members of the militia on board at Cano Negro, killing 3 and injuring 1.

In a separate attack, 20 mercenaries kidnapped 4 civilians from INRA at Monkey Point, south of Bluefields.

Also, 60 mercenaries invaded the Santa Rosa district, kidnapping 19 campesinos.

September 8, 1984 Forty mercenaries kidnapped 6 campesinos at Mina San Albino.

September 9, 1984 Mercenaries kidnapped 11 civilians from the district of Guayaculy.

September 10, 1984 A group of 80-100 mercenaries kidnapped 9 people at El Tule.

September 11, 1984 Mercenaries kidnapped 7 people from Valle La Esperanza.

September 14, 1984 Thirty mercenaries attacked a sector of the district of San Martin, killing a member of the FSLN and kidnapping 2 civilians, including the president of the local voting precinct.

September 22, 1984 Three civilian workers for the State farm in Palo de Arguito were kidnapped by mercenaries along the border as they repaired wires there.

September 23, 1984 In the San Esteban sector, mercenaries ambushed a truck in which mothers and family members of participants in the Patriotic Military Service (SMP) were traveling, killing 8 people (including 5 civilians) and wounding 19.

September 26, 1984 A group of 120 mercenaries kidnapped 3 campesinos from the Canta Galoo co-operative.

October 4, 1984 A group of some 250 mercenaries ambushed and burned two trucks between Venencia and Santa Gertrudis. One man was killed, and 7 people, including a woman teacher, are missing as a result of the attack. The mercenaries also burned 3 other vehicles.

October 5, 1984 Mercenaries attacked the Las Llaves co-operative, killing a civilian.

October 6, 1984 Mercenaries stopped a civilian vehicle at Mata de Guineo, near San Rafael del Norte, killing 1 person and kidnapping another.

In a separate attack, 60 mercenaries kidnapped 3 campesinos near Valle El Cua, subsequently killing 1 of them.

October 7, 1984 Ten mercenaries kidnapped 5 civilians at Truslaya.

October 10, 1984 A group of mercenaries kidnapped 15 families, consisting of approximately 50-60 persons, in the Bambu sector.

Also, mercenaries attacked the Juan Pablo Umanzor Co-operative near San Rafael del Norte, killing 5 members of the co-operative and wounding two others.

October 11, 1984 Seven Nicaraguans were killed and 2 wounded in combat with mercenary forces at Guapino, near Wiwili.

Also, 300 mercenaries attacked the town of Suscayan, killing 3 civilian members of the militia and wounding one.

October 12, 1984 Eighty mercenaries ambushed an INRA truck in Rio Saiz, wounding 10 civilians, 5 of them seriously.

October 14, 1984 A group of mercenaries kidnapped 40 campesinos and burned the State farm at Namaji.

In addition, mercenaries attacked Las Playitas, killing 8 Nicaraguan soldiers.

October 17, 1984 A group of some 50 mercenaries belonging to the MISURA organization kidnapped 17 civilians and 9 infantry reservists at Campo Uo, near Siuna.

October 18, 1984 A group of 20 mercenaries invaded the Kurinwacito district, killing 4 campesinos.

October 19, 1984 Mercenaries looted a co-operative in the Poza Redonda district, kidnapping 2 civilians, including 1 woman.

Also, 8 Nicaraguans were killed and 4 wounded in combat with 300 mercenaries near Esteli.

October 21, 1984 A group of approximately 100 mercenaries kidnapped 25 campesinos in the El Jocote Valley sector.

October 22, 1984 A group of 50 mercenaries ambushed 3 MICONS trucks and a pick-up truck from the Ministry of Health in the Las Cruces sector, killing one civilian and wounding 3 others. Six soldiers were also wounded.

October 23, 1984 At 5:00 in the morning a group of approximately 60 mercenaries attacked the William Baez co-operative at La Paila, killing 2 civilians and wounding 5 others.

October 24, 1984 A group of 150 mercenaries kidnapped 14 campesinos at Siapali, near Quilali, later killing 2 of them.

October 27, 1984 Eighty mercenaries ambushed a truck carrying Nicaraguan troops at Coyolar, killing 8 and wounding 15.

October 28, 1984 A group of 80 mercenaries kidnapped 30 campesinos 30 kilometers north-east of El Sardinal.

October 29, 1984 Mercenaries attacked the town of San Gregorio, 10 kilometers north-east of Jicaro, killing 6 children and wounding 6 others. Two people were missing as a result of the attack.

In a separate attack, mercenaries ambushed an INRA vehicle in the El Saraval sector, killing 6 persons.

October 30, 1984 A group of mercenaries kidnapped 18 campesinos in the Casa de Tabla sector.

In a separate attack, a group of up to 150 mercenaries killed 2 persons at Santa Elena.

November 2, 1984 Approximately 250 mercenaries ambushed a Toyota "Jeep" in the district of El Cedro, killing a woman teacher, a political officer of the El Cedro garrison, a CDS member, and 2 others.

November 4, 1984 Three hundred mercenaries kidnapped 100 civilians at La Vigia, near Wiwili.

November 5, 1984 Mercenaries attacked the ULI co-operative near Siuna with mortars and heavy machine guns, killing a soldier and 4 civilians.

November 7-9, 1984 One hundred mercenaries kidnapped 5 civilian members of the militia and a woman from the Las Lajas Co-operative near San Jose de Achuapa. They also looted the nearby El Lagartillo Co-operative.

November 10, 1984 A group of up to 200 mercenaries attacked the Kurinwas district, kidnapping 4 civilians and killing the local ENABAS manager.

In a separate attack, mercenaries kidnapped 17 campesinos at Las Canas, Rio Coco.

November 14, 1984 A group of mercenaries attacked the La Sorpresa Co-operative, killing 14, injuring 4 (including 2 children), and burning the food store, a private house, and a common building.

In a separate attack, a MICONS truck was ambushed in the district of Planes de Vilan. The vehicle was machine-gunned after it hit a mine; 2 civilians were killed and 3 injured.

November 15, 1984 The director of the National Development Bank (BND) for Jinotega and 1 other civilian were killed and 4 civilians were wounded when a mercenary group ambushed 2 jeeps 20 kilometers north-west of El Tuma.

In a separate attack, mercenaries kidnapped 15 civilians in the district of Asadin, near Siuna.

November 16, 1984 — Approximately 150 mercenaries burned the Bernardino Diaz Ochoa co-operative, killing 6 of its members.

November 19, 1984 — Four employees of the State electric company were kidnapped by approximately 60 members of MISURA in the community of Tasba-Paunie.

November 21, 1984 — Mercenaries kidnapped 45 campesinos from the La Pita district.

November 25, 1984 — Mercenaries ambushed an agricultural transport truck in the district of Posolera, burning the truck, killing 6 persons and kidnapping 10 others; one other person was missing.

November 28, 1984 — A group of up to 100 mercenaries kidnapped 20 civilians in the El Diamante district.

November 30, 1984 — A group of 17 mercenaries kidnapped 7 civilians in the district of El Sueno; they also carried off an undetermined number of cattle.

Violations of Nicaraguan Air Space

During the first ten months of 1984, some 996 violations of Nicaraguan air space by aircraft of various types were detected, including (among others) RC-135, U-2, C-130, C-47, Cessna, and AC-37 aircraft. Some of these aircraft, such as the RC-135s and U-2s, realized reconnaissance missions against Nicaragua; others were observed carrying out aerial resupply of mercenary forces.

Exhibit B

Translation

MEMORANDUM

January 23, 1984.

To: Embassy of the United States of America, Tegucigalpa, Honduras, CA.
From: Task Force Commanders of the FDN and MISURAS.
Channel: Coronel Raymond.
Subject: Request for an Operational Advisor.

1. By means of this letter we request that considerations be made with regards to the possibility of operationally incorporating Mr. Gustavo Villoldo in our project, who has been a very important factor in the recently-occurred crisis, and, whom we know and admire because of his successful background in the anti-communist struggle.

His identification with us, and his capabilities, will provide us with what could be the decisive element in this venture given that his good relationship with the leaders of the Anti-Sandinist Movement will facilitate an eventual unity that will help achieve the common objective.

2. As an additional point we want to deeply thank the Government of the United States of America for its great interest taken in the solution of the recent problem, which we hope will correctly culminate in the near future. We are willing to co-operate with you always until the last consequences hoping that once the solution to the problem which is only partially affecting us is finalized we can reach a greater level of efficiency in our actions.

[Signatures not reproduced]

[Spanish text not reproduced]

Annex B

AFFIDAVIT OF MIGUEL D'ESCOTO BROCKMANN,
FOREIGN MINISTER OF NICARAGUA

April 21st, 1984.

I, Miguel d'Escoto Brockmann, certify and declare the following:

1. I am Foreign Minister of the Republic of Nicaragua. My official duties include overall responsibility for conducting and monitoring relations between Nicaragua and other countries.

2. I am aware of the allegations made by the Government of the United States that my Government is sending arms, ammunition, communications equipment and medical supplies to rebels conducting a civil war against the Government of El Salvador. Such allegations are false, and constitute nothing more than a pretext for the US to continue its unlawful military and paramilitary activities against Nicaragua intended to overthrow my Government. In truth, my Government is not engaged, and has not been engaged, in the provision of arms or other supplies to either of the factions engaged in the civil war in El Salvador.

3. Since my Government came to power on July 19, 1979, its policy and practice has been to prevent our national territory from being used as a conduit for arms or other military supplies intended for other governments or rebel groups. In fact, on numerous occasions the security forces of my Government have intercepted clandestine arms shipments, apparently destined for El Salvador, and confiscated them. In one specially notable incident, our security forces intercepted a private passenger bus — from the Costa Rican bus line "TICABUS" — with a false bottom loaded with arms in route to El Salvador. The arms were confiscated and the delivery was prevented.

4. Very difficult objective conditions notwithstanding, my Government has and will continue to make the greatest efforts to prevent the use of our national territory for arms smuggling. Nicaragua's frontier with Honduras, to the north, is 530 kilometers long. Most of it is characterized by rugged mountains, or remote and dense jungles. Most of this border area is inaccessible by motorized land transport and simply impossible to patrol. To the south, Nicaragua's border with Costa Rica extends for 220 kilometers. This area is also characterized by dense and remote jungles and is also virtually inaccessible by land transport. As a small underdeveloped country with extremely limited resources, and with no modern or sophisticated detection equipment, it is not easy for us to seal off our borders to all unwanted and illegal traffic.

5. Another complicating factor has been the presence of armed mercenary bands along both our northern and southern borders. These bands, numbering more than 10,000 men in the north and more than 2,000 in the south — recruited, armed, financed and directed by the United States — have made it almost impossible for my Government to adequately patrol its borders to prevent illegal arms trafficking. My Government has been compelled to devote all of its military and security resources to defending our national territory from attack by these mercenaries. Since 1981, more than 1,400 of our people have been killed in this fighting and more than 3,000 others have been wounded or kidnapped. We

simply do not have the luxury of being able to divert our security forces to the interception of arms traffic. Nicaragua thus has sought to complement its own efforts with regional co-operation.

6. For these reasons, my Government has actively sought verifiable international agreements for halting all arms traffic in the region. Commencing in May 1981, my Government proposed to the Government of Honduras that joint measures be taken to eliminate the flow of arms across our common border. In particular, my Government proposed joint border patrols, composed of military and security forces of both countries, to police the border. On May 13, the Head of State of Honduras accepted the proposal in principle and agreed with the Nicaraguan Head of State to follow-up with a meeting of our two Ministers of Defense, but this meeting never took place because Honduras unilaterally withdrew from the negotiations. In April 1982, my Government again initiated a dialogue with Honduras in an effort to terminate the flow of arms and attacks by armed bands in the border area. Our proposal, consisting of seven specific points, was rejected by Honduras on April 23, 1982. In May 1982, another meeting of our respective Chiefs of Staff took place wherein Nicaragua sought agreement on a joint border patrol. Honduras refused. In August 1982, Nicaragua proposed another meeting of Chiefs of Staff, together with Foreign Ministers. Honduras rejected such a meeting and bilateral efforts to reach a solution on the arms problem came to a halt.

7. Thereafter, Nicaragua sought, and continues to seek, a multilateral agreement to eliminate arms traffic in the region. In September 1983, Nicaragua was the first of the five Central American States to accept and ratify the 21-Point Declaration of Objectives promulgated by the Contadora Group (Colombia, Mexico, Panama and Venezuela). Included in these points were provisions to eliminate arms traffic to rebel or mercenary groups seeking to overthrow established governments in the region. The Contadora Group asked each of the five Central American countries (Nicaragua, Costa Rica, Honduras, Guatemala and El Salvador) to prepare and present draft treaty proposals addressing all of the 21 Points set forth in the Declaration of Objectives, including those relating to elimination of arms traffic.

8. In October 1983, Nicaragua prepared and presented to the Contadora Group, to the other Central American States, and to the Government of the United States, a package of four proposed treaty agreements, collectively entitled "*Juridical Bases to Guarantee Peace and International Security for the Central American States*". These proposed treaties would require each Central American State to adopt all possible measures to prevent its territory from being used for the traffic in arms or other supplies to armed groups seeking to overthrow any established government of the region, and would require each State to prevent any such armed groups from operating or seeking sanctuary in its national territory. Under Nicaragua's proposals, the Contadora Group would act as guarantor of these provisions, and would have the power to conduct on-site inspections in the territory of any State accused of tolerating or supporting arms traffic or the presence of armed rebel groups. In the case of a violation the Contadora Group would be empowered to direct the offending State to terminate its improper conduct and to pay compensation to any other State or States injured as a result of such conduct. Nicaragua announced its readiness to sign and ratify these proposed treaties immediately, or to entertain counterproposals from the other Central American States or from the United States. The United States has refused to respond in any way. Nor have the other Central American States accepted Nicaragua's proposal or responded with specific counterproposals of their own.

9. I submit that the foregoing demonstrates Nicaragua's commitment to eliminating unlawful arms trafficking in Central America — a plague, it is important to bear in mind, of which Nicaragua itself is the primary victim — and refutes the false accusations that the Government of the United States has made against Nicaragua. It is interesting that only the Government of the United States makes these allegations, and not the Government of El Salvador, which is the supposed victim of the alleged arms trafficking. Full diplomatic relations exist between Nicaragua and El Salvador. Yet, El Salvador has never — not once — lodged a protest with my Government accusing it of complicity in or responsibility for any traffic in arms or other military supplies to rebel groups in that country.

(*Signed*) Miguel d'ESCOTO BROCKMANN,
Foreign Minister
Republic of Nicaragua.

[Spanish certification not reproduced]

Annex C

STATEMENTS OF UNITED STATES PRESIDENT RONALD REAGAN AND SENIOR OFFICIALS OF HIS ADMINISTRATION, AND OFFICIAL DOCUMENTS OF AGENCIES OF THE US GOVERNMENT

Attachments

I. Statements of President Ronald Reagan

1. Remarks of the President in interview with reporters George Condon of Copley News Service, Bruce Drake of the *New York Daily News*, Sara Fritz of *US News and World Report*, Carl Leubsdorf of the *Dallas Morning News*, Chris Wallace of NBC and Steve Weisman of the *New York Times*, May 5, 1983 (Transcript, Office of the Press Secretary to the President).
2. News conference by the President, October 19, 1983 (Transcript, Office of the Press Secretary to the President).
3. Statement issued on behalf of President Ronald Reagan, March 8, 1984 (Office of the Press Secretary to the President).
4. Interview of the President by the *New York Times*, March 28, 1984 (Transcript, Office of the Press Secretary to the President).
5. News conference by the President, May 22, 1984 (Transcript, Office of the Press Secretary to the President).
6. Interview of the President by Brian Farrell of Irish Television, May 28, 1984 (Transcript, Office of the Press Secretary to the President).
7. League of Women Voters 1984 Presidential Debate between the President and former Vice President Mondale, October 21, 1984 (Transcript, Office of the Press Secretary to the President).
8. Remarks of the President to the Press at the home of John Wayne, November 3, 1984 (Transcript, Office of the Press Secretary to the President).
9. News conference by the President, November 7, 1984 (Transcript, Office of the Press Secretary to the President).
10. Statement by the President, November 9, 1984 (Office of the Press Secretary to the President).
11. Interview of the President by the *Wall Street Journal*, February 7, 1985 (Transcript, Office of the Press Secretary to the President).
12. Interview of the President by the *New York Times*, February 11, 1985 (Transcript, Office of the Press Secretary to the President).
13. Radio address of the President to the Nation, February 16, 1985 (Transcript, Office of the Press Secretary to the President).
14. News Conference by the President, February 21, 1985 (Transcript, Office of the Press Secretary to the President).
15. Remarks of the President to the 12th Annual Conservative Political Action Conference, March 1, 1985 (Transcript, Office of the Press Secretary to the President).
16. Interview of President Reagan by *Business Week*, March 11, 1985.
17. Radio address of the President to the Nation, March 30, 1985 (Transcript, Office of the Press Secretary to the President).
18. Interview of the President by the *Washington Post*, April 1, 1985 (Transcript, Office of the Press Secretary to the President).

19. Remarks of the President on Central American Peace Proposal, April 4, 1985 (Transcript, Office of the Press Secretary to the President).
20. Radio address of the President to the Nation, April 6, 1985 (Transcript, Office of the Press Secretary to the President).
21. Remarks of the President at dinner for Nicaraguan Refugee Fund, April 15, 1985 (Transcript, Office of the Press Secretary to the President).

II. Statements of Senior Administration officials

1. Review of US Foreign Policy. Hearing before the Committee on Foreign Affairs, House of Representatives, 97th Congress, 1st Session, November 12, 1981.
2. News release, Office of Assistant Secretary of Defense (Public Affairs), Remarks prepared for delivery by the Honorable Fred C. Ikle, Under Secretary of Defense for Policy, to Baltimore Council on Foreign Affairs, Baltimore, Maryland, Monday, September 12, 1983.
3. Press conference by the Honorable George P. Shultz, Secretary of State, Tuesday, March 20, 1984.
4. Address by Ambassador Jeane J. Kirkpatrick, United States Permanent Representative to the United Nations, at the American Society of International Law, April 12, 1984.
5. Text of statement by CIA, April 16, 1984, *New York Times*, April 17, 1984.
6. Excerpt from noon Press Briefing, May 10, 1985 — Spokesman John Hughes.
7. Press briefing by Larry Speakes, May 25, 1984.
8. Excerpts from remarks by Vice President George Bush to the Executive Forum, Washington DC, Friday, January 25, 1985 (Transcript, Office of the Press Secretary to the Vice President).
9. Prepared statement of the Honorable Langhorne A. Motley, Assistant Secretary of State for Inter-American Affairs, before the Western Hemisphere Subcommittee of the Committee on Foreign Affairs, US House of Representatives, January 29, 1985.
10. Letter of the Secretary of State, Washington, to the President, Inter-American Development Bank, January 30, 1985.
11. Prepared statement of General Paul F. Gorman.
12. Excerpts from remarks by Vice President George Bush, Austin Council on Foreign Affairs, Austin, Texas, Thursday, February 28, 1985 (Transcript, Office of the Press Secretary to the Vice President).

III. US Government documents

1. National Security Council Document on policy in Central America and Cuba, April 1982, *New York Times*, April 7, 1983, p. A-16.
2. CIA War in Central America, *Counterspy*, September-November 1983.
3. CIA internal report details US role in *contra* raids in Nicaragua last year.
4. Statement of United States Department of State, January 18, 1985, US withdrawal from the proceedings initiated by Nicaragua in the International Court of Justice.
5. US support for the democratic resistance movement in Nicaragua. Unclassified excerpts from the President's report to the Congress pursuant to section 8066 of the Continuing Resolution for FY 1985, pl 98-473, the White House, Washington.

Attachment I-1

May 5, 1983

REMARKS OF THE PRESIDENT IN INTERVIEW WITH REPORTERS GEORGE CONDON OF COPLEY NEWS SERVICE, BRUCE DRAKE OF *THE NEW YORK DAILY NEWS*, SARA FRITZ OF *US NEWS AND WORLD REPORT*, CARL LEUBSDORF OF THE *DALLAS MORNING NEWS*, CHRIS WALLACE OF NBC AND STEVE WEISMAN OF *THE NEW YORK TIMES*

The Oval Office

Question: Mr. President, moving on to another topic, before this session began, you asked why you should not be scolding Members of the House committee that voted yesterday to stop funding for overt operations against Nicaragua. Do you really see any consequences of that action? Does that vote stop you from doing anything, or hinder anything your administration is doing?

The President: It is in a committee. And there is the Senate yet to go on this. And I would hope that, maybe, we could do better there.

It, also, had an element in it that looked at partisanship, since the vote was on straight party lines. And I do not believe that that reflects the thinking of a great many Democrats, because many of them spoke up right after my speech.

Question: Does this vote indicate that you failed in your objectives in that speech?

The President: No, as I say, because I know that there are still a great many Democrats who have been quite outspoken, including some of the leadership in the House of their party, in support of what I had proposed — of making this a bipartisan approach, and even being critical of some of their members who did seem to sound partisan.

The thing that needs telling about this whole situation in Nicaragua — I thought I had covered this subject but, maybe, I did not cover it enough the other night. And that is that, right now, these forces that have risen up in opposition to the Sandinista government are — under what you might say is a sort of a group — a controlling body that formed in the northern part of Nicaragua. There are about seven leading members to this kind of committee. Most of them were former anti-Somoza people. They are people who simply want this Government of Nicaragua to keep its promises.

If you remember, the Organization of American States asked Somoza to resign at that time. And Somoza, his reply to them was that if it would benefit his country, Nicaragua, he would. And he did resign.

The Organization of American States also gave four points to the Sandinistas that they, the Organization of American States, would support them if their goal was these four */sic/* things: of promoting democracy, of immediate elections, of a concern for human rights and the Sandinistas acceded to that and said yes, those were their goals and they would keep those four provisions or promises. And they haven't. They never made an effort to keep them. They violated all of them.

Now, this is what makes me say that there's a great hypocrisy there of the Sandinista government protesting what is happening in its own country and from people who were once a part of its own revolution at the same time that they are supporting people in another country who are seeking to overthrow a duly elected government of the people.

Question: Mr. President, you — in referring to these groups, you seem to suggest that these groups are seeking a change in Nicaragua itself. And how does that statement square with your saying that we're not violating the law in aiding groups who seek the overthrow of the Nicaraguan Government?

The President: Well, do they? Or are they asking that government — or that revolution of which they themselves were a part — asking it to go back to its revolutionary promises and keep faith with the revolution that the people of Nicaragua supported.

Many of these people are businessmen whose businesses have been taken over. They are farmers whose land was seized by this government, farmers whose crops were — they were forced to sell them to the government at less than the cost of production. And they're protesting this violation of what had made them support the revolution to begin with.

But the whole purpose of the Sandinista government seems to be not only with El Salvador but the export of revolution to their other neighbors, to countries that are already democracies. Honduras has taken that step; Costa Rica, the oldest democracy of all. And all of them are plagued by radicals in their midst who are encouraged by the Sandinista government.

Question: Mr. President, I'd like to go back to what the committee actually did yesterday in voting the cutoff. CIA Director Casey is reported to have said it would lead to a bloodbath for the guerrillas inside the country. Do you agree with that? And how seriously do you take what the committee does? How bad would it be if that cutoff of covert aid went through?

The President: Well, I'm saying if — well, if that became the policy, I think it would set a very dangerous precedent. The executive branch of government and the Congress has a shared responsibility, as I pointed out in my speech, for foreign policy. And we have — we each have a place in formulating foreign policy, but we each have a responsibility also. And I think that what I said about this was that it was very irresponsible. And it was — it literally was taking away the ability of the executive branch to carry out its constitutional responsibilities.

Question: Do you believe that it would lead to the bloodbath that the CIA Director talked about?

The President: Well, I haven't heard his entire remark in connection with that term or how he described it or what he meant with it. I'll make it a point to find out. I once used a bloodbath term as Governor of California, and one individual reversed it in the press and had it saying the opposite of what I had intended it to say and I never did quite get the situation cleared up.

Question: Well, what — I don't understand. What's wrong with the committee's position? What difference does it make if instead of giving covert aid to the guerrillas in Nicaragua, you give overt aid to the countries of El Salvador and Honduras to stop the flow of weapons through their countries, which is what you say you want in the first place? What's wrong with that?

The President: Except then the only help that you can give is through other governments. And I don't think that — I don't think that's an effective thing to do, and how do you know that the other governments would want to themselves, then, participate in helping the people that need the help? In other words, we'd be asking some other government to do what our own — what our Congressional — or our Congress has said that we can't do.

. . . .

Question: Many members of the administration say that our commitment must be, in El Salvador, must be a sustained one and that it could take seven to ten years to turn things around. I think Ambassador Hinton suggested as much recently. Is that your view?

The President: I think that he, I may be wrong, but I think that when he made that statement he was talking with regard to a more limited way that we have been trying to perform there. I know that guerrilla wars — that time is on the side of the guerrillas, and they aren't something that is instantly resolved, just as terrorism isn't something that can be curbed just by normal police actions. These are very difficult things. The hit-and-run tactics of guerrillas are similar to terrorist activities. It's, I suppose, based on an extension of the same principle that you can't ever totally eliminate crime.

Question: But do you think if the, if this aid package were approved by Congress, that it would be sufficient to turn things around there this year. Your own proposal calls for less aid next year, and it seems to suggest that this surge of aid would do the trick.

The President: Well, the surge we're asking for right now is a restoration of what we asked for in the first place. And, as I say, it's better than two to one economic aid. The problem with a country like El Salvador and what its problems are right now that requires military aid in the sense of more training, so far only having trained one-tenth of the army — more training that we could offer, more military supplies and ammunition and so forth — we must do is, when you've got a government that is trying to reverse the course, the history, of the country and bring about democracy and human rights and things of that kind, and you have guerrillas that are making it impossible to function, or for those programs to function, what good does it do to have a land reform program and give land to the peasants if the peasants can't go out and work the land for fear of being shot by the guerrillas? What good does it do to try and improve the economic standards of a people if they're out of work simply because someone has shut off the power and the factory can't operate or transportation has broken down so that the supplies that are needed and the products from whatever they're working on cannot be transported, because of the bridges and so forth that are blown up.

When a third of one area of the country — a third of the year, they were totally without power, then you have to say, "If we're going to make this economic improvement work, we've got to stop that conflict". We have to stop those people that are preventing the economy from moving with their firearms and their murders and so forth.

And this is what, it seems, that sometimes the debate in the Congress, they seem to be ignoring.

Question: Mr. President, can I follow up on something you said earlier? Did I understand you to say that if you were forced to stop aid to the Nicaraguan guerrillas, that you would try to funnel through other countries?

The President: No, I was saying that's what the Committee said, that the Committee said we would have to go overt, and, then, in going overt, you can only give money to another government. And, if you did that, then you would have to be depending on — well, maybe those other governments in Central America would give that money to the freedom fighters in Nicaragua.

Now, if they want to tell us that we can give money and do the same things we've been doing — money, giving, providing subsistence and so forth to these people directly and making it overt instead of covert — that's all right with me. I just don't want the restrictions put on it that they might put on.

Question: You'd be willing to accept the idea of overt aid to the anti-Sandinista guerrillas in Nicaragua?

The President: Yes, but not if they do it as one individual or more than one, as suggested on the Hill — that they would do it and, then, we would have to enforce restrictions on the freedom fighters as to what tactics they could use.

And I have said that if we were to do that, then I would expect that the only fair thing would be that the Nicaraguan Government would itself impose the same restrictions on the freedom fighters in El Salvador, only I don't call them freedom fighters because they've got freedom and they're fighting for something else. They're fighting for a restraint on freedom.

Question: Can I just — All of a sudden now we're aiding freedom fighters. I thought we were just interdicting supplies into —

The President: I just used the word, I guess, "freedom fighters" because the fact that we know that the thing that brought those people together is the desire, as I said, for the same revolutionary principles that they once fought and have been betrayed in. As I say, they have made it plain. They want what they once fought beside the Sandinistas to get. And they have been betrayed. And I thought that the use of freedom fighters was because — I found out that it seems as if there is a kind of a bias in the treatment of guerrilla fighters. It depends on what kind of a government they are opposing. And some are treated more kindly than others.

Now, I think the ones in El Salvador who are fighting against an elected government, they are guerrillas. But in reality, when we talk about Nicaragua and everyone says, "the government in Nicaragua", well, it was a government out of the barrel of a gun. And, true, we favored it before I got here. We did not lift a hand for the existing government of Nicaragua, because we did not believe that it was treating its people fairly.

And here was a revolution that took place that seemed to express all the things that we all believe in. Well now, they have not carried out those things. And they are there by force. And what really — other than being in control of the capital, you might say, and having a handle on all the levers — what makes them any more a legitimate government than the people of Nicaragua who are asking for a chance to vote for the kind of government they want?

Attachment I-2

October 19, 1983.

NEWS CONFERENCE BY THE PRESIDENT

The East Room

. . . .

Question: Mr. President, regarding the recent rebel attacks on a Nicaraguan oil depot, is it proper for the CIA to be involved in planning such attacks and supplying equipment for air raids? And do the American people have a right to be informed about any CIA role?

The President: I think covert actions have been a part of government and a part of government's responsibilities for as long as there has been a government. I'm not going to comment on what, if any, connection such activities might have had with what has been going on, or with some of the specific operations down there.

But I do believe in the right of a country when it believes that its interests are best served to practice covert activity and then, while your people may have a right to know, you can't let your people know without letting the wrong people know, those that are in opposition to what you're doing.

. . . .

Attachment I-3

March 8, 1984.

STATEMENT ISSUED ON BEHALF OF PRESIDENT RONALD REAGAN, MARCH 8, 1984 (OFFICE OF THE PRESS SECRETARY TO THE PRESIDENT)

The President today requested the Congress to provide $21 million in additional funding for fiscal year 1984 for activities of the Central Intelligence Agency. The request will provide funds necessary to continue certain activities of the Central Intelligence Agency which the President has determined are important to the national security of the United States. The appropriate committees of the Congress have been thoroughly briefed on these classified activities and will be fully briefed on this request.

Attachment I-4

March 29, 1984.

INTERVIEW OF THE PRESIDENT BY *THE NEW YORK TIMES*, MARCH 28, 1984

The Oval Office

. . . .

Question: Why don't — I'd like to ask the final question about Central America, Mr. President. I wonder if I could ask you to explain or justify how the United States can go about assisting people who are, as you call them, freedom fighters who are seeking to overthrow a government that we have diplomatic relations with? And answer, if you could, critics who are worried that this is increasing our involvement in Central America.

The President: Well, the answer to that is, first of all, this particular government of Nicaragua is a government that was set up by force of arms. The people have never chosen it. It's a revolutionary government. And that government, in violation of its pledge to us at a time when it was a revolutionary force trying to become a government, had promised that it would not aid the guerrillas in El Salvador who are attempting to overthrow a duly-elected government and a democratic government. And they have violated that. The guerrillas are literally being directed from bases near Managua. They're being supplied by that government. And, the other factor with regard, and why I have referred to them on occasion as "freedom fighters" is because many of them are elements of the same revolution that put the Sandinista government in force.

The revolution against the Somoza dictatorship — and our Government, under the previous administration, sat back and never lifted a finger in behalf of Somoza. And then when the fighting was over, did start to give financial aid to the revolutionary government, to help it install itself. And had to cancel that when it discovered what that government was doing. During the revolution against Somoza, the revolutionaries appealed to the Organization of American States, of which we're a member also. And appealed to that Organization to ask Somoza to step down and end the bloodshed. And the Organization of American States asked for a statement of what were the goals of the revolution. And they were provided: democracy, a pluralistic government, free elections, free labor unions, freedom of the press, human rights observed — those were the goals of the revolution, submitted in writing to the Organization of American States.

After they got in, they followed the pattern that was followed by Castro in Cuba.

Those other elements that were not Sandinista, other groups who wanted — and they thought all the same thing, democracy — to rid themselves of a dictatorship. Those elements were denied participation in the government. Arrests were made. There were some who were exiled. There were some, I'm afraid, were executed. And, many of the people now fighting as so-called "*contras*" are elements of the revolution. And it is less an overthrow that they're fighting for as it is a demand that they be allowed to participate in the government and that the government keep its promises as to what it had intended for the people.

And I see no dichotomy in our supporting the Government, the democratic Government of El Salvador, and the *contras* here — and we've made it plain to Nicaragua — made it very plain that this will stop when they keep their promise and restore a democratic rule. And have elections. Now, they've finally been pressured, the pressure's led to them saying they'll have an election. I think they've scheduled it for next November. But, there isn't anything yet to indicate that that election will be anything but the kind of rubber-stamp that we see in any totalitarian government. How do you have — there aren't any rival candidates, there aren't any rival parties, and how would they campaign without a free press?

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Attachment I-5

May 22, 1984

NEWS CONFERENCE BY THE PRESIDENT

The East Room

The President: Good evening. I have a statement. We have an important visitor in Washington, Jose Napoleon Duarte, the President-elect of El Salvador. The President-elect and I yesterday issued a joint statement in which we agreed on three major objectives for Central America: The strengthening of democratic institutions, the improvement of living standards, and increased levels of US security assistance to defend against violence from both the extreme left and the extreme right.

The election of José Napoleon Duarte is the latest chapter in a trend toward democracy throughout Latin America. In Central America, El Salvador now joins Costa Rica and Honduras in having a democratically elected government. Democracy in Central America is a fundamental goal of our policy in that region. But, continued progress toward that goal requires our assistance.

Most of our aid, three-quarters of it, is economic assistance. But security assistance is essential to help all those who must protect themselves against the expanding export of subversion by the Soviet bloc, Cuba and Nicaragua.

Also, as I said in my speech to the nation on May 9th, we must support the democratic aspirations of the people of Nicaragua, and oppose the Sandinista aggression against their neighbors and who seek genuinely democratic elections in Nicaragua, as the Sandinistas promised the OAS in 1979.

Peace can only be achieved in Central America if the forces of democracy are strong. We strongly support multilateral efforts toward peace, especially the Contadora process. However, no lasting peace settlement through the Contadora process can be achieved unless there is simultaneous implementation of all the Contadora objectives, including genuinely democratic elections in Nicaragua.

The Freedom Fighters in Nicaragua have promised to lay down their arms and to participate in genuinely democratic elections, if the Sandinistas will let them.

Our Congress faces some historic decisions this week. Those who struggle for freedom everywhere are watching to see whether America can still be counted upon to support its own ideals. The people of El Salvador are watching, and the freedom fighters of Nicaragua are watching. Nicaragua's threatened neighbors are watching, and the enemies of freedom are watching as well.

Our balanced policy can succeed if the Congress provides the resources for all elements of that policy as outlined in the bipartisan recommendations of the Kissinger Commission. But if the Congress offers too little support, it will be worse than doing nothing at all. This excessive communism in Central America poses the threat that 100 million people from Panama to the open border on our south could come under the control of pro-Soviet regimes. We could face a massive exodus of refugees to the United States. The Congress has the opportunity to reaffirm our commitment to brave people risking their lives for the cause of liberty and democracy in Central America. The Congress also has the opportunity to reaffirm our bipartisan tradition which will tell the world that we're united when our vital interests are at stake. I'm asking the Members of the Congress to make that commitment.

And now, tonight's first question will be from Maureen Santini. And incidentally, this is a double first for Maureen — her first question in her new role as the AP's chief White House correspondent. Maureen?

Question: Mr. President, you've said American vital interests are at stake in Central America. What will we have to do if the Congress does deny that security assistance to stop this threat of Soviet-sponsored régimes taking over all the countries right up to our Southern borders?

The President: You say what do we have to do to —

Question: Yes. Suppose the Congress did not vote the money that you need for the freedom fighters, as you call them? What, then, would we be required to do to prevent this scenario from developing?

The President: We'd be in a very difficult situation and so would they. But I have great hopes that after President Duarte's visit here and meeting with as many of the Congress as he did that there's some reason for optimism.

Yes, Andrea?

Question: Mr. President, there are reports that the administration has gone around Congress and continued to increase military and intelligence activities in Central America by channeling money through accounting tactics, tricks of accounting, through the Pentagon to the CIA. While you can't discuss covert activities, can you at least assure the American people that you have not had this administration go beyond the will of Congress, by increasing the spending for military activities in Central America?

The President: Andrea, we've followed no procedures that are any different from what has been done in past administrations, nor have we done anything without the knowledge of the Congress.

Question: So, can you explain then, Sir, we were told, Congress was told about a month ago that if Congress didn't appropriate the money, the CIA-supported *contras* would run out of money by now.

Now, Congress has been told that the CIA has enough money to get through the rest of the summer. How is that possible without their getting secret funds?

The President: Unless they guessed wrong on the first statement — I thought that they were closer to being out of money than they apparently are. But I don't think any — Well, nothing of that kind could take place, that — without the knowledge of Congress.

Question: Mr. President, you have said in the past that you have no intention of sending U.S. troops into combat in El Salvador, and President-elect Duarte said yesterday that he has no intention of asking for U.S. troops to go there. But despite these denials, the doubts linger. Walter Mondale insists that your policy will lead to U.S. involvement down there.

Can you say unequivocally tonight that you would not send troops down to El Salvador, even if it appears that without them El Salvador might fall to the communists.

The President: First of all, President Duarte made it plain that they would never request American troops. We have never had any consideration of doing that, or any thought of doing that at all. The — I don't know how I can convince anyone of that, but all you'd have to do is look at all our friends and neighbors in Latin America, and probably as a holdover from the past. We'd lose all those friends and neighbors if we did that. They want our help. They know they have to have our help, economically, and in the manner in which we're giving it in military support — by training, supplies and equipment and so forth — but they don't want American manpower there.

Attachment 16

Tuesday, May 29, 1984

INTERVIEW OF THE PRESIDENT BY BRIAN FARRELL OF IRISH TELEVISION, MAY 28, 1984

The Library

Question: Mr. President, as you know, there are people in Ireland who are objecting already to your visit. In particular they feel that your stand on Central America has not supported justice sufficiently. How do you feel about the likelihood of those protests?

The President: I feel that they're misinformed. We know that Cuba and the Soviet Union have vast, worldwide disinformation machineries — or machines — in which they can give out misinformation to the media, to organizations and groups and so forth. I'm sure that many of those people, if there are — people demonstrating on this issue — I'm sure they're probably sincere and well-intentioned. But I don't think that they know the situation. Now, we've had a case here in which, with the three elections that have taken place, bipartisan groups of our Congress and others have gone down there, in addition to the Bipartisan Commission I appointed under Dr. Kissinger, to go down to Central America.

When they come back from viewing those elections — many of these Congressmen have gone down openly admitting they're like those people that would want to demonstrate; they think we're on the wrong side — they have come back completely converted by what they saw.

We've got a situation where, for decades and decades or even centuries, in Central America and Latin America, generally, we've had revolutions in which it's simply one group of leaders being overthrown by another group of leaders who want to take over and be in charge, and the dictators. Some years ago, there was an overthrow of a military dictatorship in El Salvador. And, the government that was set up then became kind of the same type of military thing. And then, a man named Duarte, who was President after that first overthrow, was exiled, was — well, first was imprisoned, was tortured, was exiled — even though he'd been chosen as President. He has now returned and the people, overwhelmingly, have elected him as their choice for President.

Now, how anyone could not believe that he is going to be determined to enforce civil rights, and if there is — well, first of all, he's picking up something that has already been vastly improved under the existing Government already there, which was elected by the people. We've had three elections in 26 months there. And in each one of them, more — a greater proportion of their people turned out for that election than turns out for an election in the United States.

Question: But, of course, it's mandatory to vote.

The President: Not really. As a matter of fact, they had something like about a $20 fine if you didn't vote — but these teams of observers of ours went down — they couldn't find anyone that — (laughter) — that even worried about that, or that thought that would ever be enforced — whether they did or not.

But, they did find an overwhelming enthusiasm on the part of the people. When a woman stands in the line for hours, waiting her turn to vote, and has been wounded by the guerrillas whose slogan was, "Vote today, and die tonight", and she refused to leave the line for medical treatment of her bullet wound until she had voted — she wouldn't take the chance of missing the opportunity to vote.

Now these, the guerrillas — the Government offered amnesty. The Government offered for them to put down their guns and come in and participate, submit candidates for office and all — in the electoral process. And the guerrillas turned that down. By the same token, in Nicaragua, the Sandinista government — which is as totalitarian as anything in Cuba or the Soviet Union — indeed, they are the puppets of Cuba and the Soviet Union. That government, the so-called "freedom fighters" there — or, if they prefer to call them guerrillas — they are former revolutionaries who were aligned with the Sandinistas in the revolution to overthrow the authoritarian government of Somoza.

And, once they were in, the Sandinistas, which is, as I say, the totalitarian element, communist element, they got rid of their allies in the revolution, and have broken every promise that the revolutionaries — when it was still going on — made to the Organization of American States, as to free elections, human rights, freedom of the press, freedom of religion.

The present government of Nicaragua — right now, the Catholic Bishops are protesting as far as they can, at the risk of great persecution — they embarrassed one Bishop by parading him through the streets of the capital naked. Now, the Archbishop of San Salvador has been quoted by this disinformation network here and there as being one who wants America to stop lending aid, military aid, to the Government of El Salvador. He has refuted that. He has denied that and said no. He knows that the others — the guerrillas — are getting outside support, and he knows from whence it comes, and he has said, no, he does not want us to leave.

So, the program we have is one in which three out of four dollars will go to help establish a democratic economy and society in El Salvador, and only $1 is going to military aid. You can't have social reforms in a country while you're getting your head shot off by guerrillas.

Question. But your critics, Mr. President — your critics here in the United States, your critics in Europe, your critics in Ireland — don't see necessarily Nicaragua and El Salvador quite in the same way. There are those who've come back and who've said Nicaragua isn't as repressive as it looks. There are those who say America's aid going in to the guerrillas there strengthens and toughens that government.

The President. How do they explain, then, the Miskito Indians which, even under the Somoza authoritarian government, were allowed to have their own communities, their own culture and religion and so forth, and almost upon taking office, the Sandinista government marched its forces into those Miskito villages, burned their crops, burned their homes — their villages — and then confined as many as they could in concentration camps? But thousands of them fled across the borders. Now, we know an awful lot about some of those Miskitos because some of our medical personnel in our military are helping taking care of them where they are in refugee camps in Honduras.

All I can suggest to some of these people who are saying this in Europe and who have evidently been propagandized is — and I don't mean this to sound presumptuous — but is there any one of them that has access to all the information that the President of the United States has? I'm not doing this because I've got a yen to involve ourselves or spend some money, but I do know that when the Sandinista — well, the revolution won in Nicaragua, the previous administration immediately set out to help them — financial aid to that government.

And it was only a few days before my inauguration when that administration had irrefutable evidence that the Nicaraguan government was supplying arms and material to the guerrillas in El Salvador, attempting to overthrow a duly-elected government that was trying to be a democracy. And he put a hold on any further help.

Now, we came into office a few days later. And we still had to find out for ourselves; we thought if there is a possibility of negotiating some kind of a settlement — And, so, on that basis, we renewed the aid — financial aid that was going to them and tried to deal with them. By April, we had found out that, no, there was no honor, no honesty, they were totalitarian but more than that, they openly declared that their revolution knows no boundaries, that they are only the beginning of what they intend to be further revolution throughout all of Latin America.

Question: Would that, nevertheless, justify mining ports?

The President: Those were homemade mines that couldn't sink a ship. But let me ask you this: Right now, there is a Bulgarian ship unloading tanks and armored personnel carriers at a port in Nicaragua. That is the fifth such Bulgarian ship in the last 18 months. Just a week or two ago, there were Soviet ships in there unloading war materiel. Now, the Nicaraguan government — the Sandinista government — is funneling this through to the guerrillas in El Salvador. Indeed, the headquarters for the guerrilla movement in El Salvador is only a few miles from the capital of Nicaragua, in Nicaragua where the strategy is planned and the direction of their revolution is taking place.

Now, it seems to me that if you're going to justify people trying to bring this present Nicaraguan government back to the original promise of the revolution, to modify its totalitarian stand. And you're going at the same time — and one of the reasons we were offering help is to interdict those arms and weapons that were going to the El Salvador guerrillas. But you know that a flood of that materiel is coming in through the ports being unloaded. But you're going to try to think of a way to interdict that.

And those were homemade mines, as I say, that couldn't sink a ship. They were planted in those harbors where they were planted by the Nicaraguan rebels. And I think that there was much ado about nothing.

Attachment I-7

October 21, 1984.

LEAGUE OF WOMEN VOTERS 1984 PRESIDENTIAL DEBATE BETWEEN THE PRESIDENT AND FORMER VICE PRESIDENT MONDALE

Kansas City Convention Center, Kansas City, Missouri

Question: Mr. President, in the last few months it has seemed more and more that your policies in Central America were beginning to work, yet just at this moment we are confronted with the extraordinary story of the CIA guerrilla manual or the anti-Sandinistas *contras* whom we are backing, which advocates not only assassinations of Sandinistas, but the hiring of criminals to assassinate the guerrillas we are supporting in order to create martyrs. Is this not in effect our own State-supported terrorism?

The President: No, but I'm glad you asked that question because I know it's on many peoples minds. I have ordered an investigation. I know that the CIA is already going forward with one. We have a gentleman down in Nicaragua who is on contract with the CIA advising supposedly on military tactics, the *contras*. And he drew up this manual. It was turned over to the agency head in the CIA in Nicaragua to be printed and a number of pages were excised by that agency head there, the man in charge, and he sent it on up here to CIA where more pages were excised before it was printed. But some way or another there were 12 of the original copies that got out down there and were not submitted for this printing process by the CIA. Now those are the details as we have them. And as soon as we have an investigation and find out where any blame lies for the few that did not get excised or changed, we certainly are going to do something about that. We'll take the proper action at the proper time.

I was very interested to hear about Central America and our process down there and I thought for a moment that instead of a debate, I was going to find Mr. Mondale in complete agreement with what we're doing, because the plan that he has outlined is the one we've been following for quite some time, including diplomatic processes throughout Central America and working closely with the Contadora Group. So, I can only tell you about the manual — that we're not in the habit of assigning guilt before there has been proper evidence produced and proof of that guilt, but if guilt is established — whoever is guilty, we will treat with that situation then and they will be removed.

Question: Mr. President, you are implying then that the CIA in Nicaragua is directing the *contras* there. I'd also like to ask whether having the CIA investigate its own manual, in such a sensitive area, is not sort of like sending the fox into the chicken coop a second time.

The President: I'm afraid I misspoke when I said a CIA head in Nicaragua. There's not someone there directing all of this activity. There are, as you know, CIA men stationed in other countries in the world, and certainly in Central America. And so it was a man down there in that area that this was delivered to, and he recognized that what was in that manual was in direct contravention of my own Executive Order in December of 1981, that we would have nothing to do with regard to political assassinations.

Question: Mr. Mondale, your rebuttal.

Mr. Mondale: What is a President charged with doing when he takes his Oath of Office? He raises his right hand and takes an Oath of Office to take care, to faithfully execute the laws of the land. A President can't know everything, but a

President has to know those things that are essential to his leadership and the enforcement of our laws.

This manual, several thousands of which were produced, was distributed ordering political assassinations, hiring of criminals and other forms of terrorism. Some of it was excised; but the part dealing with political terrorism was continued. How can this happen? How can something this serious occur in an administration and have a President of the United States in a situation like this say he didn't. A President must know these things. I don't know which is worse, not knowing or knowing and not stopping it.

And what about the mining of the harbors in Nicaragua, which violated international law? This has hurt this country, and a President's supposed to command.

Attachment I-8

November 3, 1984

REMARKS OF THE PRESIDENT TO THE PRESS AT THE HOME OF JOHN WAYNE

Winterset, Iowa

Question. Why are you suppressing the CIA manual findings until after the election?

The President. We're not. We turned them over to the — to the — the oversight — the commission — the oversight commission of all intelligence. And Casey's been very forthcoming in his statements about it. And I think you're going to find that it was all a great big scare, and that there was nothing in that manual that had anything to do with assassinations or anything of that kind.

Question. Well, it told them how to proceed on assassinations.

The President. No.

Question. Well, you — you read the manual now?

The President. No.

Question. Well — you've read the manual now?

The President. No. But I know enough about the report that had been and some of the members in the — in the intelligence committees in the Congress. And no — there was nothing in that manual that talked assassination at all.

Question. Will you release that report when it gets to you, even if it's before the election?

The President. Sure. Why not? Because I think it's going to clear the air.

Question. — it said neutralize, didn't it — isn't that the same thing?

The President. What?

Question. Didn't the manual say "neutralize" — and can't that be construed as meaning assassination?

The President. I suppose you could construe it any number of — of several ways — but, in the context in which it was recommended, actually, that was not the actual choice — the original choice of the word. The real word was "remove" — meaning remove from office. If you came into a village or town, remove from office representatives of the Sandinista government. When they translated it into the Spanish, they translated it "neutralize" instead of remove. But the meaning still remains the same.

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Attachment I-9

November 7, 1984.

NEWS CONFERENCE BY THE PRESIDENT

The Los Angeles Room, Century Plaza Hotel, Los Angeles, California

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Question. Mr. President, have you received the CIA report on the manual? When are you going to make it public? What did it say specifically? Did it recommend disciplinary action? And what are you going to do about it?

The President. I think you're going to find — I haven't received it yet, but I'm expecting to — probably before I get back to Washington. But, I have to say from whatever advance information I have, that there was much ado about nothing; that it is not a document that is teaching someone how to assassinate. There's nothing of that kind in it. It was actually a document trying to help leaders of the *contras* influence and win over the people. If they came into a community down there, and how they were to persuade the people they were on the right side. So, we're waiting to see what's going to be — what is in there. But, I have had some information on it and have been assured that there's not one word in there that refers to assassination.

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Attachment I-10

November 9, 1984.

STATEMENT BY THE PRESIDENT

I am pleased to sign into law HR 5399, the "Intelligence Authorization Act for fiscal year 1985". This Act represents another step in my continuing effort to revitalize our Nation's intelligence capability. Given the ever-increasing difficulty of ensuring the security of this Nation, it is essential that we have an Intelligence Community capable of meeting these diverse challenges. In authorizing sufficient appropriations and in providing new administrative authorities that enhance the ability of our intelligence agencies to perform their missions, Congress has, with this Act, provided the basis for maintaining and building our intelligence capabilities. This Act ensures that the Intelligence Community can continue to stay firmly on the path of progress that we and the Congress have charted together. I sincerely regret the inability of the Congress to resolve the issue of continuing certain activities in Nicaragua that are important to achieving US policy objectives. The necessity of US support for this program is beyond question. I am signing this Act with every expectation that shortly after the next Congress convenes it will provide adequate support for programs to assist the development of democracy in Central America.

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Attachment I-11

February 8, 1985

INTERVIEW OF THE PRESIDENT BY THE *WALL STREET JOURNAL*, FEBRUARY 7, 1985

The Oval Office

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Question: If we could shift to foreign policy for a moment. Your administration is obviously headed into a battle with Congress over aid to the *contra* forces in Nicaragua. Last night, you said that aid was necessary to our own self defense. What I keep wondering is would you like to see the *contras* actually overthrow the Sandinista government? And, if not, what's the purpose of aiding them?

The President: The purpose of aiding them is to aid literally the people of Nicaragua, who are striving to get the government that the revolution promised them. If you'll recall, during the revolution, the revolutionary forces appealed to the Organization of American States for help. And they asked the Organization if they would try to persuade Somoza to step down and thus end the bloodshed. And in return for this, they gave the Organization of American States the declaration of principles of what it was they were seeking in the revolution. And this was pure democracy. This was all the civil rights and human rights, freedom of speech, freedom of labor unions, freedom of religion, and all of these things.

Now, what happened we saw happen once before with Castro's coming to power in Cuba. He had other allies that wanted a democracy and he never admitted to his true leanings until that revolution was over.

Well, what happened was the faction known as the Sandinistas took over. They ousted a number of other revolutionary leaders. Some of them were exiled, some, I think, were done away with, some imprisoned.

But they have set up a totalitarian government. They've made it plain, their allies are Cuba, the Soviet Union, the communist bloc, even Mr. Qaddafi, and now Iran is getting into the picture. But they've set up a totalitarian government. They have betrayed the principles that the people of Nicaragua were fighting for. And what we think is that we should be on the side of those people who actually are only asking for the democracy that they'd fought a revolution to get.

Question: It sounds as though you are saying that the objective is entirely new government in Nicaragua. Would that be fair to conclude?

The President: Well, when you answer a question that simply, though, and you come back, then, you see, you get into the thing — well, are you talking about individuals or are you talking — you're talking about the governmental form. Now, if that governmental form can come by way of the people who are presently in that government and who then will be willing to stand for elections at appropriate times, that's fine. But that's what it's really all about, is getting the revolution the people fought for.

Attachment I-12

February 12, 1985

INTERVIEW OF THE PRESIDENT BY *THE NEW YORK TIMES*, FEBRUARY 11, 1985

The Oval Office

Question: Could we talk about Nicaragua, I guess, Mr. President? There seems to be a real stalemate there. You're not providing aid to the *contras* now. There are no negotiations that are going on now. What are you planning to do in the way of policy to try to get something going that might bring about the kind of Nicaragua that you would like?

The President: I'm going to continue to ask the Congress to let us, in all of Latin America, go forward with the kind of program that was born of the Kissinger-led Commission down there in which 75 per cent of the help we offer is going to be in social and economic aid to try and make these countries more self sufficient, to eliminate the great poverty in so many of those countries by simply helping them become more viable economically, and, at the same time, giving them help for security, so that they're not victims of subversion, particularly from outside their own countries.

With regard to Nicaragua, I think that we should continue to offer support to the people of Nicaragua who have been betrayed in the revolution that they, themselves, supported.

That revolution was supposed to be — result in democracy. And there was the — the assurances were given by the people who were fighting the revolution, and leading it. Then the Sandinistas did what Castro before them had done in Cuba. Once the revolution was successful, they ousted from the government or any participation in government, all the other factions that were dedicated to democracy, and have instituted a totalitarian régime.

And what the Nicaragua people want is the revolution they fought for. And I think they're entitled to have it.

Question: So support to the people of Nicaragua is support to the *contras*? Or what?

The President: Well, they certainly are part of the people, and they were part of the revolution in many instances. The thing that so many people that are arguing against this don't seem to be aware of is a difference between, for example, Nicaragua and El Salvador. El Salvador now, after several elections, is a Government that is striving for democracy, that was chosen by the people. And the people trying to overthrow it, the guerrillas in El Salvador, are trying to overthrow a Government that the majority of the people elected.

In Nicaragua, the so-called Sandinista government is a government that seized power out of the barrel of a gun it's never been chosen by the people. And it has directly contravened the principles of the revolution that they were fighting. And I think there's every reason for the *contras* to be representing those who continue to strive for the democracy that they fought a revolution to get.

Question: Well, are you talking about a fundamental change in the Nicaraguan government, or can they do things incrementally? Can they, for example, ease up on press freedom, or can they provide more press freedom, or can they provide certain steps that you might think would be acceptable without making a fundamental change in their government?

The President: Well, Jerry, I don't know what when we talk about this, are we talking about the people that are in the government or the form of government? If it's the people, obviously those who have grabbed power are not going to want to give it up. That's typical of totalitarianism. But, as to the other part all the Sandinistas would have to do is go back to what they, themselves, participated in promising to the Organization of American States that they wanted democracy. They wanted free voting, they wanted free labor unions, they wanted a free press and all and subject themselves, or submit themselves, I should say, and anyone else who chooses to to the will of the people by way of elections and voting.

Question: Sir, let me ask you, on the *contras* question, what form of aid should this take in terms of helping the *contras*? I mean, how do we propose to help the *contras*?

The President: Well, I think what we I still believe in covert programs where they're necessary and where they're desirable. And so once you say that, then there are some limits as to what you can specify.

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Attachment I-13

February 16, 1985.

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

Rancho del Cielo

. . . .

The President: The true heros of the Nicaraguan struggle, non-communist, democracy-loving revolutionaries, saw their revolution betrayed and took up arms against the betrayer. These men and women are today the democratic resistance fighters some call the *contras*. We should call them "freedom fighters".

Sandinista propaganda denounces them as "mercenaries" and former National Guardsmen of the Somoza dictatorship. But this is a lie. The freedom fighters are led by those who opposed Somoza, and their soldiers are peasants, farmers, shopkeepers and students, the people of Nicaragua. These brave men and women deserve our help. They do not ask for troops but only for our technical and financial support and supplies. We cannot turn from them in their moment of need. To do so would be to betray our centuries-old dedication to supporting those who struggle for freedom. This is not only legal, it's totally consistent with our history.

. . . .

And now the free people of El Salvador, Honduras and, yes, of Nicaragua ask for our help. There are over 15,000 freedom fighters struggling for liberty and democracy in Nicaragua and helping to stem subversion in El Salvador. They're fighting for an end to tyranny and its only reliable produce: cruelty. They are our brothers. How can we ignore them? How can we refuse them assistance when we know that ultimately their fight is our fight? We must remember that if the Sandinistas are not stopped now, they will, as they have sworn, attempt to spread communism to El Salvador, Costa Rica, Honduras and elsewhere.

The freedom fighters are putting pressure on the Sandinistas to change their ways and live, not as communist puppets, but as peaceful democrats. We must help. Congress must understand that the American people support the struggle for democracy in Central America. We can save them as we were once saved, but only if we act, and now.

Attachment 1-14

February 21, 1985

NEWS CONFERENCE BY THE PRESIDENT

The East Room

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Question: Mr. President, on Capitol Hill — on Capitol Hill the other day, Secretary Shultz suggested that a goal of your policy now is to remove the Sandinista government in Nicaragua. Is that your goal?

The President: Well, removed in the sense of its present structure, in which it is a communist totalitarian State, and it is not a government chosen by the people. So, you wonder sometimes about those who make such claims as to its legitimacy. We believe, just as I said Saturday morning, that we have an obligation to be of help where we can to freedom fighters and lovers of freedom and democracy, from Afghanistan to Nicaragua and wherever there are people of that kind who are striving for that freedom.

And we're going to try to persuade the Congress that we can legitimately go forward and hopefully, go forward on a multi-year basis with the Scoop Jackson plan for trying to bring development and help to all of Central America.

Question: Well, Sir, when you say remove it in the sense of its present structure, aren't you then saying that you advocate the overthrow of the present government of Nicaragua?

The President: Well, what I'm saying is that this present government was an element of the revolution against Somoza. The freedom fighters are other elements of that revolution.

And once victory was attained, the Sandinistas did what Castro had done, prior to their time, in Cuba. They ousted and managed to rid themselves of the other elements of the revolution and violated their own promise to the Organization of American States, and as a result of which they had received support from the Organization, that they were — their revolutionary goal was for democracy, free press, free speech, free labor unions, and elections, and so forth, and they have violated that.

And the people that are fighting them, the freedom fighters opposing them, are Nicaraguan people who want the goals of the revolution restored. And we're going to try to help.

Question: Is the answer yes, Sir? Is the answer yes, then?

The President: To what?

Question: To the question, aren't you advocating the overthrow of the present government? If —

The President: Not if the present —

Question: — you substitute another form of what you say was the revolution?

The President: Not if the present government would turn around and say, all right, if they'd say, "Uncle". All right, come on back into the revolutionary government and let's straighten this out and institute the goals.

Question: Mr. President, I wonder if we might return to Nicaragua. In answer to Sam's question when he pressed you, you said that you — or you seemed to be saying that you wouldn't advocate the overthrow of the government, not if the present government would turn around and say, "Uncle". Well, aren't you really saying that you want the present government out, and secondly, Sir, should the United States be trying to influence a government of another nation in this hemisphere?

The President: I think that what we're doing and what we have proposed doing is within the UN Charter and within the OAS Charter and the right of people to do what the freedom fighters are doing. And it is — you can say — it's like saying, "Is the glass half full or half empty?" You can say we're trying to oust the Sandinistas by what we're saying.

We're saying we're trying to give those who fought a revolution to escape a dictatorship, to have democracy, and then had it taken away from them by some of their fellow revolutionaries — we're saying we want them to have a chance to have that democracy that they fought for. And I don't think the Sandinistas have a decent leg to stand on.

What they have done is totalitarian. It is brutal, cruel. And they have no argument against what the rest of the people in Nicaragua want.

Question: Well, Sir, what about the specific prohibitions by the United States Congress against the kind of conduct which would overthrow their government or provide money to do so?

The President: The — what?

Question: I'm referring to the Boland Amendment, Sir. The specific prohibitions of the Congress.

The President. I think that some of the proposals that have been made in Congress have lacked a complete understanding of what is at stake there and what we're trying to do.

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Attachment I-15

March 4, 1985.

REMARKS OF THE PRESIDENT TO THE 12TH ANNUAL CONSERVATIVE POLITICAL ACTION CONFERENCE, MARCH 1, 1985

The Sheraton-Washington Hotel

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Now, I am against sending troops to Central America. They are simply not needed. Given a chance and the resources, the people of the area can fight their own fight. They have the men and women. They're capable of doing it. They have the people of their country behind them. All they need is our support. All they need is proof that we care as much about the fight for freedom 700 miles from our shores as the Soviets care about the fight against freedom 5,000 miles from theirs. (Applause.)

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Attachment I-16

March 11, 1985.

INTERVIEW OF PRESIDENT REAGAN BY *BUSINESS WEEK*

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Question. To turn to foreign affairs, you say that the U.S. will keep pressure on Nicaragua until the leftist government there agrees to power-sharing. How can we justify helping to overthrow a government merely because we don't like its political coloration?

Answer. Well, they call themselves a government. This is one faction of a revolution that overthrew a dictatorship. But then, just as [Prime Minister Fidel] Castro had done in Cuba, one faction got in and muscled the others out. Some of them are jailed, some driven into exile. Some are leading the [anti-Sandinista] freedom fighters now. I think we have to ignore this pretense of an election they just held. This is not a government. This is a faction of the revolution that has taken over at the point of a gun. And under the United Nations Charter and the Charter of the Organization of American States, there is every reason for us to be helping the people that want the original goals of the revolution instituted.

Attachment I-17

March 30, 1985.

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

The Oval Office

Right now, Havana and Managua are waging a campaign of disinformation to cover up their deeds and reassure the American people with soft words of peace. A secret Nicaraguan memo leaked to the *Wall Street Journal* and reported yesterday revealed how the communists have used propaganda to smear their opponents, tighten censorship, and confuse the outside world.

There are other examples of the régime's true intent. On March 1st, exiled Nicaraguan leaders, representing a broad pro-democracy movement, met in San Jose, Costa Rica, and made this offer. The freedom fighters in Nicaragua would agree to a cease-fire if the communist regime will negotiate, permit free elections and genuine democracy. The answer came back quick, loud and clear — forget it.

U.S. support for the freedom fighters is morally right and intimately linked to our own security. If we refuse to help their just cause, if we pull the plug and allow the freedom fighters to be wiped out by the same helicopter gunships the Soviets are using to murder thousands of Afghans, then our ultimate price to protect peace, freedom and our way of life will be dear indeed.

Nearly 24 years ago, President Kennedy, warning against communist penetration in our hemisphere said, "I want it clearly understood that this Government will not hesitate in meeting its primary obligations, which are to the security of our nation".

Well, for my part, I want it clearly understood today that if we fail to meet this obligation, then history will hold us fully accountable for the consequences. For we will send an unmistakable signal that the greatest power in the world is unwilling and incapable of stopping communist aggression in our own backyard.

Attachment I-18

April 2, 1985.

INTERVIEW OF THE PRESIDENT BY THE *WASHINGTON POST*, APRIL 1, 1985

The Oval Office

Question: Mr. President, you've caused — often given your views of Nicaragua and called it "a war machine" and said it poses a threat to its neighbors and ultimately to our security, but the Sandinistas appear to be firmly in control, and there are a few signs that they're changing. What — looking back on your policy over the last four years — has it actually accomplished as far as Nicaragua is concerned?

The President: Yes, I think there are more people who are opposing the regime right now in Nicaragua than actually fought in the revolution against Somoza. And it seems to be growing, the unhappiness of the people, the — you only have to look at the flood of refugees that are escaping from Nicaragua to realize that the people of that country are not happy with that totalitarian regime.

Question: With what final result will it — will that —

The President: Well, I know the Contadora is still trying to find an answer of that kind. The *contras* themselves have offered to lay down weapons and go into negotiations in an effort to have what they had fought the revolution for, and that is a democracy. And so I think as long as the people of Nicaragua are still striving for the goals of the revolution that they themselves fought, I think that we're obligated to try and lend them a hand.

Question: In this country, even though your popularity remains very high, on the issue of Nicaragua, polls show that there are many Americans opposed to your policy there, and the Congress shows very little inclination to give you the $14 million you've asked. Do you have any new proposals or ideas that would change this view in Congress?

The President: Nothing that I can talk about here. But let me just say, I know this about the — what the polls show, and I know what happens up on the Hill. But we've been subjected in this country to a very sophisticated lobbying campaign by a totalitarian government, the Sandinistas. There has been a disinformation program that is virtually worldwide, and we know that both the Soviets and the Cubans have such a disinformation network that is beyond anything that we can match. And, of course, I don't think the people have heard the — actually, the thing that we're trying to explain of what is going on.

People go down, some people, to Nicaragua and claim they come back now with views that are favorable to that totalitarian government. But why don't they go to some of the neighboring countries and talk to the thousands and thousands of refugees and ask them why they fled Nicaragua?

Question: Is there anything that you can do as President — that your administration can do to help the *contras* and their supporters, if Congress does not vote this money?

The President: I don't know. That's something I'd have to face if they do this. We're not alone in helping them. As a matter of fact, in spite of the polls, there is more and more private support for the *contras*.

Attachment I-18

April 4, 1985

REMARKS OF THE PRESIDENT ON CENTRAL AMERICAN PEACE PROPOSAL

The Briefing Room

I want to announce today a proposal for peace in Central America that can enable liberty and democracy to prevail in this troubled region and that can protect the security of our own borders, economy and people.

On March 1st, in San José, Costa Rica, the leaders of the Nicaraguan Democratic Resistance met with a broad coalition of other exiled Nicaraguan democrats. They agreed upon and signed an historic proposal to restore peace and democracy in their country. The members of the Democratic Resistance offered a cease-fire in return for an agreement by the Nicaraguan regime to begin a dialogue mediated by the Bishops Conference of the Roman Catholic Church with the goal of restoring democracy through honest elections. To date, the Nicaraguan regime has refused this offer.

The Central American countries including Nicaragua have agreed that internal reconciliation is indispensable to regional peace. But we know that, unlike President Duarte of El Salvador who seeks a dialogue with his opponents, the communists in Nicaragua have turned, at least up until now, a cold shoulder to appeals for national reconciliation from the Pope and the Nicaraguan bishops. And we know that without incentives, none of this will change.

For these reasons, great numbers of Nicaraguans are demanding change and taking up arms to fight for the stolen promise of freedom and democracy. Over 15,000 farmers, small merchants, whites, blacks and Miskito Indians have united to struggle for a true democracy.

We supported democracy in Nicaragua before and we support Nicaragua today — democracy today. We supported national reconciliation before and we support it today. We believe that democracy deserves as much support in Nicaragua as it has received in El Salvador. And we're proud of the help that we've given to El Salvador.

You may recall that in 1981, we were told that the communist guerrillas were mounting a final offensive, the Government had no chance, and our approach would lead to greater American involvement. Well, our critics were wrong. Democracy and freedom are winning in El Salvador. President Duarte is pulling his country together and enjoys wide support from the people. And all of this, with America's help kept strictly limited.

The formula that worked in El Salvador — support for democracy, self-defense, economic development and dialogue — will work for the entire region. And we couldn't have accomplished this without bipartisan support in Congress, backed up by the National Bipartisan Commission on Central America, headed by Henry Kissinger. And that's why, after months of consulting with Congressional leaders and listening carefully to their concerns, I am making the following proposal: I'm calling upon both sides to lay down their arms and accept the offer of church-mediated talks on internationally-supervised elections and an end to the repression now in place against the church, the press and individual rights.

To the members of the Democratic Resistance, I ask them to extend their offer of a cease-fire until June 1st.

To the Congress, I ask for immediate release of the $14 million already appropriated. While the cease-fire offer is on the table, I pledge these funds will not be used for arms or munitions. These funds will be used for food, clothing and medicine and other support for survival. The Democratic opposition cannot be a partner in negotiations without these basic necessities.

If the Sandinistas accept this peace offer, I will keep my funding restrictions in effect. But peace negotiations must not become a cover for deception and delay. If there is no agreement after 60 days of negotiations, I will lift these restrictions, unless both sides ask me not to.

I want to emphasize that consistent with the 21 goals of the Contadoran Process, the United States continues to seek: One, Nicaragua's implementation of its commitment to democracy made to the Organization of American States. Two, an end to Nicaragua's aggression against its neighbors. Three, a removal of the thousands of Soviet Bloc, Cuban, PLO, Libyan and other military and security personnel. And, four, a return of the Nicaraguan military to a level of parity with their neighbors.

Now, later today, I will be meeting with Arturo Cruz, Adolpho Calero and Alfonso Robelo to discuss my proposal.

Democracy is the road to peace. But if we abandon the brave members of the Democratic Resistance, we will also remove all constraints on the communists.

Democracy can succeed in Central America. But Congress must release the funds that can create incentives for dialogue and peace. If we provide too little help, our choice will be a communist Central America with communist subversion spreading southward and northward. We face the risk that 100 million people from Panama to our open southern border could come under the control of pro-Soviet regimes and threaten the United States with violence, economic chaos and a human tidal wave of refugees.

Central America is not condemned to that dark future of endless violence. If the United States meets its obligations to help those now striving for democracy, they can create a bright future in which peace for all Americans will be secure.

So, in the spirit of Easter, let us make this so. I look forward to working with the Congress on this important matter in the coming weeks.

Question: What's the incentive for the Nicaraguan government, Mr. President?

The President: Well, to end the bloodshed that is going on, to end the great economic crisis that is growing evermore worse in their country because of what they've done.

Question: Mr. President, Tip O'Neill said that this is a dirty trick, that you're trying to hoodwink the American public into thinking that it is humanitarian aid but it really is a secret plan to proceed militarily.

The President: Well, I don't think he's heard this particular plan yet — has been consultations, but if he's calling this a dirty trick, he's got a funny definition of dirty tricks.

Question: Mr. President, if Congress should turn you down —

Question: What makes you think that this will make Congress more likely —

The President: Go ahead, Andrea.

Question: — to accept your aid?

The President: Well, because Congress, in all of their efforts to hinder our continued aid to the contras and to democracy down there, have emphasized the need for a peaceful and political solution and a solution of the kind we've talked here that would result from discussion between the parties.

Question: Mr. President, would you ask

Question: Mr. President, you've made it plain that the $14 million, you think, is essential. But if Congress should turn you down, will you look for some other avenue to help the *contras*, some other way to continue your desire to see a restructuring of the Nicaraguan government?

The President: Well, we're not going to quit and walk away from them no matter what happens.

Question: Would you contemplate any military action against Nicaragua? You seem to be offering either-or, and the threat is the $14 million. Is that really enough to overthrow the Nicaraguan government?

The President: In I think it isn't a case of overthrowing, it is a case of returning to the goals of the revolution that both the *contras* and the Sandinistas fought for. And as far as our making war or anything, that has never been our intention. And we've made that we've repeated that over and over again.

Question: Mr. President, if there is a cease-fire and there are talks but they don't produce anything, what does money the $14 million go for, then? Is that to purchase weapons for the *contras*?

The President: I said after 60 days, if no agreement can be reached, and unless both sides ask us to continue the same process, then I would think that we could use that $14 million to help the *contras* in any way.

. . . .

Question: One more question, if you get this would you agree to bring home all of our troops from all of the countries in South America in Central America?

The President: The only troops that we have down there now are troops that are on various maneuvers and training exercises.

Question: That's right. That's right. But they are in danger, especially some that have just gone down there to Honduras.

The President: No.

Question: with their flack jackets and ammunition. And they know they're in danger.

The President: No, they're

Question: There are men and women down there, Sir, who are in danger. Will you promise to bring them all home?

The President: If you'll look back through history, you'll find out that we traditionally have used among our neighbors for jungle training exercises of this kind. And they're not, as some loud voices up on the Hill have said, they're not down there as a threat to anyone. They're down there as we're training new enlistees in our Army to have a well-trained military that can fight any place that might be required. And this has been done in Honduras repeatedly before. And that's all it is. So, we're not we don't have any occupying forces down there. We've got 55 advisors I think the number still remains in El Salvador.

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Attachment I-20

April 6, 1985.

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

Rancho del Cielo, Santa Barbara, California

Now, let me give you the encouraging news about our proposal for peace and democracy in Nicaragua. As you know, we've asked both sides — the communists and the democratic resistance — to lay down their arms. We've endorsed the proposal made by the democratic resistance, the *contras*, that the Catholic Church serve as mediator to restore freedom and ensure internationally supervised elections. And we've asked Congress to release $14 million for those freedom fighters — and that will go immediately for medicines, food and clothing, and other support to help these men and their families survive.

We have made this proposal in a sincere effort to start a dialogue aimed at true internal reconciliation which can bring peace and liberty to Nicaragua.

You know, the federal government these days spends $14 million every few minutes. So we're asking Congress for just a few minutes-worth of help for the democratic forces of Nicaragua. $14 million means very little to us. But it's a whole world to them.

Attachment I-21

April 16, 1985.

REMARKS OF THE PRESIDENT AT DINNER FOR NICARAGUAN REFUGEE FUND, APRIL 15, 1985

J. W. Marriott Hotel, Washington, D.C.

The President: I want to begin by saying that I'm honored to be in the presence of those who are here from Nicaragua and all the rest of you, too. Many of you have been driven from the land of your birth by a sad turn of history, but you've refused to forget your homeland or abandon your fellow Nicaraguans. And for this, you deserve, and you have, both our high regard and our thanks.

Six years ago, many of you were part of the fight to overthrow an oppressive regime that had ruled your country for decades. You succeeded, the regime fell. And many rejoiced, knowing that true freedom and true democracy would finally rise to take its place.

But the new regime became not a democracy but a dictatorship. Communism was embraced and Nicaragua moved into the Soviet orbit. The best of the revolution, members of the original revolutionary government who had fought for high ideals left the country. In all, more than a quarter of a million souls fled Nicaragua, and they're fleeing still. Many of the refugees are the poorest of the poor, Indians and peasants and terrified mothers and children. All of them need our help. But even more, perhaps, they need the attention of the world. After nearly six years, attention must be paid.

There's so much I want to discuss tonight, from the plight of the refugees to why they're fleeing. I want to talk about what is at stake in Central America, what is at issue and what it means to all of us in this room, in this country and in the West.

I'll start with Nicaragua now, Nicaragua on April 15, 1985.

As you know, the Sandinista dictatorship has taken absolute control of the government and the armed forces. It is a communist dictatorship. It has done what communist dictatorships do, created a repressive State security and secret police organization assisted by Soviet, East German and Cuban advisors, harassed, and in many cases, expunged the political opposition and rendered the democratic freedoms of speech, press and assembly punishable by officially-sanctioned harassment and imprisonment or death.

But the communists are not unopposed. They are facing great resistance from the people of Nicaragua, resistance from the patriots who fight for freedom and their unarmed allies from the pro-democracy movement.

There is growing evidence of Sandinista brutality. We've recently learned that 10 or 11 members of the Social Christian Party have been rounded up and jailed. The Sandinistas are trying to get them to confess to being counter-revolutionaries. And you might be interested in knowing one way the communists are coercing these confessions. They have also arrested more than a hundred relatives of the political prisoners. And according to our most recent information, the Social Christian Party members are being held in the dark in small, over-heated cells. Prisoners are served meals at irregular intervals, after 12 hours, for instance, and then the next in another two. The purpose is to disorient them and wear them down. Where do they get that idea? This same method has been used against political prisoners in Cuba.

Now, we do not know the exact number of political prisoners in Nicaragua today. But we get an indication from the testimony of Jose Gonzalez, a former Vice President of the Social Democratic Party. Gonzalez told Pope John Paul II there were about 8,000 political prisoners in 1981. He also told the Pope the Sandinistas practice "repression and torture". Gonzalez, as you know, was arrested when he returned from Rome. He left Nicaragua and now lives in exile.

But the most compelling evidence of Sandinista brutality and of why people are fleeing is the Sandinistas scorched-earth policy.

We know the Sandinistas have ordered and are carrying out the forced relocation of tens of thousands of peasants. We have reports that 20,000 peasants have been moved in the past two months from their homes to relocation camps. Peasants who have escaped call themselves "hostages" and call the relocation camps "concentration camps". The communists themselves had admitted they're engaged in the forced resettlement of an estimated 65,000 people. Peasants and journalists tell of entire villages, homes, stores and churches being burned to the ground. They tell of animals slaughtered, crops burned and villagers taken away at gunpoint in government trucks. Why are the communists doing this? Massed forced relocations are a common feature of modern communist tyrannies. But there are other purposes here, for the people of many villages are supporting, actively supporting the freedom fighters, and so the communists have decided to put more and more of the people of Nicaragua into closely-guarded pens, and that way it will be easier for the regime to stalk the freedom fighters in the countryside. A Sandinista security chief has explained, "Anyone still in the hills is a guerrilla".

While all this is terrible, it can hardly come as a surprise to those who know what was done to the Miskito Indians.

As you know, the Miskitos supported the Sandinistas against Somoza. But shortly after taking power, the Sandinistas attempted to indoctrinate the Miskitos in Marxist dogma and the Indians resisted. The Sandinistas tried to put their own people in as leaders of the Miskito community and the Indians resisted, so much that the Sandinistas labeled them “bourgeois”, and, therefore, enemies of the people. They began to arrest Indian leaders. Some were murdered. Some were tortured. One Miskito leader told our AFL-CIO that Thomas Borge and other leaders of the Sandinistas “came to my cell and warned me that Sandinismo would be established on the Atlantic Coast even if every single Miskito Indian had to be eliminated”

Well, the Sandinistas came close. There were massacres. Eyewitnesses said some Miskitos were buried alive. Ten thousand Indians were force-marched to relocation camps. Miskito villages were burned down. They're still being burned down. Miskito villages were bombed and shelled. And they are still being bombed and shelled. In the name of humanity, these atrocities must be stopped.

Twenty thousand Indians are known to be incarcerated in relocation camps. About half are currently being held at the Tasba Pri Relocation Camps. Tasba Pri, by the way, means “free land”. Well, above one “free land” camp, a *New York Times* reporter noted a sign that said, “Work that unites us is a revolutionary force”.

In all, tens of thousands of Miskitos have been forced to flee Nicaragua, to flee the land they lived on for over a thousand years. Many now live as refugees in Honduras.

Unfortunately, it's widely believed outside Nicaragua that the Sandinistas enjoy the support of the people inside. But you know this is completely untrue. We know this from many sources, even recently, the American press.

A few months ago, the *New Republic* carried a report by Robert Leiken, who had long been sympathetic to the Sandinistas and who had formerly testified in Congress against aid to the *contras*. He wrote, “One of the most common means of sustaining the myth of popular support is the Sandinistas' use of the rationing system as a lever Ration cards are confiscated for nonattendance at Sandinista meetings”. And talk of inflation is branded as “counterrevolutionary plot”. Sympathy with the *contras*, he said, is more and pervasive. In fact, the peasants now call them “Los Muchacho”, the affectionate term they once used exclusively for the Sandinistas. And what do they now call the Sandinistas? Well, the latest workers chant is “the Sandinistas and Somoza are the same thing”.

In spite of all this, the Sandinista government retains its defenders in this country and in the West. They look at all the evidence that the Sandinistas have instituted a communist régime, all the pictures of dictator Ortega embracing Castro and visiting Moscow, all the Soviet-Bloc advisors and all the Sandinista votes in the United Nations, such as their decision in line with the Soviet Bloc to refuse the credentials of Israel, they look at this and they say, “The Sandinistas aren't communists, or aren't real communists. Why, they're only nationalists, only socialists.”

But these defenders admit there is a problem in Nicaragua. The problem, they say, is the freedom fighters. Well, just a few weeks ago, the whole world was treated to a so-called “independent investigation” of charges that the freedom fighters have committed atrocities. It spoke of these so-called “atrocities” in a rather riveting manner. And the report received great attention on television and in leading newspapers and publications. The report ignored communist brutality, the murder of the Indians and the arrest, torture and murder of political dissidents. But we really shouldn't be surprised by that, because, as our State Department discovered and *Time Magazine* reported, this so-called independent investigation was the work of one of dictator Ortega's supporters, a sympathizer who has openly embraced Sandinismo and who was shepherded through Nicaragua by Sandinista operatives.

The truth is, there are atrocities going on in Nicaragua. But they're largely the work of the institutionalized cruelty of the Sandinista government. (Applause.) This cruelty is the natural expression of a communist government, a cruelty that flows naturally from the heart of totalitarianism. The truth is, Somoza was bad, but so many of the people of Nicaragua know the Sandinistas are infinitely worse.

We have here this evening many individuals who know these truths first hand. Some of you may know of Bayardo Santaeliz. He is a 29-year-old Nicaraguan refugee and a former lay preacher of the Pentecostal Missionary Church in Nicaragua.

And this is his story, a story told in sworn testimony before a Honduran civil rights commission. A few years ago, the Sandinistas began pressuring Bayardo to stop preaching and start fighting for the revolution. And one night after holding a prayer session in a home on the slopes of the Momotombo Volcano, Bayardo went to bed. He was awakened by Sandinista soldiers who asked if he was an evangelical preacher. Bayardo said yes. The Sandinistas arrested him, accused him of counterrevolutionary activity, verbally abused him and then tied him and two others to a pillar. Then the Sandinistas doused the house with gasoline and threw in a match. The room went up in flames, but they burned the rope that bound Bayardo and he escaped with his clothes in flames and his body burned. He hid in the countryside and was rescued by Campesinos who got him to a hospital where he lied about the causes of his injuries. And not long after, he left Nicaragua.

Bayardo, I wonder if you could rise for a moment, wherever you are here in the room. (Applause.)

You know, I was going to ask all of you fellows with the cameras if you wouldn't kind of turn them off me and on him, but then he came up here, so I didn't ask you that. He's just one of the many who've suffered. He knows things and has experienced things that many of us in this country can barely imagine. And I think America has to see — America has to see the true face of Nicaragua. Thank you, Bayardo. (Applause.)

Some people say this isn't America's problem. Why should we care if Nicaragua is a democracy or not? Well, we should care for a whole host of reasons.

Democracy has its own moral imperatives, as you well know. But it also has advantages that are profoundly practical. Democratic States do not attack their neighbors and destabilize regions. Democratic States do not find it easy to declare and carry out war. Democratic States are not by their nature militaristic. Democracies are traditionally reluctant to spend a great deal of money on arms. Democratic States have built-in controls on aggressive, expansionist behavior, because democratic States must first marshal wide popular support before they move.

None of these characteristics applies to totalitarian States, however. And so totalitarian Nicaragua poses a threat to us all.

The Sandinistas have been engaged for some time in spreading their communist revolution beyond their borders. They're providing arms, training and a headquarters to the communist guerrillas who are attempting to overthrow the democratically-elected Duarte government of El Salvador. The Sandinistas have been caught supporting similar anti-democratic movements in Honduras and Costa Rica. Guatemala, too, is threatened. If these Governments fall, as Nicaragua has fallen, it will send millions of refugees north, as country after country collapses. Already, the refugee situation is building to unacceptable levels. More than a quarter of a million refugees have fled Nicaragua since the Sandinistas took control. Some weeks, a hundred Nicaraguans a day stream into Costa Rica alone. It must be noted here that many of these refugees carry no papers, register in no official camps and wind up on no one's official list of those who've fled. They simply cross the border of one country or another and settle where they can.

And let me emphasize a very important point: these refugees are not simply people caught in the middle of a war. They're people fleeing for their lives from the Sandinista police State. They are fleeing from people who are burning down their villages, forcing them into concentration camps and forcing their children into military service.

The refugees come into camps in Honduras with no food and no money. Many are sick with parasites and malaria. And the great tragedy is that these people are the innocents of the war, people without politics, people who had never presumed to govern or to tell the world how to turn. They are both innocents and victims.

And I want to take a moment to thank the people, you who are helping the refugees. Woody Jenkins, Diane Jenkins and so many people in this room. (Applause.) While the world was turning away, you were helping. People like you are America at its best.

If the communists continue unfettered by the weight of world opinion, there will be more victims, victims of a long march north. We've seen this before. We've seen the Boat People leaving Southeast Asia in terror. We saw the streams of refugees leave East Berlin before the wall was built. We've seen these sad, lost armies fleeing in the night. We cannot allow it to happen again. (Applause.)

You know of our efforts to end the tragedy in Nicaragua. We want the killing and the bloodshed and the brutality to end. We've put forth a proposal for peace. We've asked for a cease-fire. We're asking the Sandinistas to join the democratic opposition in a church-mediated dialogue. The church itself a year ago independently asked the Sandinistas for this dialogue. We're asking the Sandinistas to take steps to hold truly democratic elections and restore freedom of speech, press and assembly.

Nicaragua's neighbors, El Salvador and Honduras and Costa Rica, have embraced this proposal. President Duarte, President Suazo, President Monge have all personally written to me to express support for this peace plan. And who bears better witness to the merits of this plan than Nicaragua's own neighbors?

As part of our proposal, we've asked the Congress of the United States to release $14 million for food, medicine and other support to help the patriots who believe in democracy survive in the hills of Nicaragua. This has been called a controversial request and it's garnered some opposition in the Congress. I believe the reasons for this must be addressed.

Some claim that the freedom fighters are simply former Somozistas who want to reimpose a dictatorship. That is simply not true. Listen to the roll call of their leaders: Adolpho Calero, a Nicaraguan businessman who was imprisoned by Somoza. Alfonso Robelo, a member of the original Sandinista government, now leading freedom fighters in the south. Arturo Cruz, another former member of the Sandinista government who is supporting the freedom fighters. Eden Pastora, the famed Commander Zero, a hero of the anti-Somoza revolution.

These men are not putting their lives on the line to restore a dictatorship of the past. These men are fighting for freedom. Already they control large sections of the countryside. And, as for their level of support, there are now three times as many freedom fighters fighting the Sandinistas as there were Sandinistas fighting Somoza. (Applause.)

There are those who say America's attempt to encourage freedom in Nicaragua interferes with the right of self-determination of the Nicaraguan people. Self-determination, you wonder what the ghosts of the Miskito Indians would say to that. You wonder what the journalists who cannot print the truth and the political prisoners who cannot speak it would say about self-determination and the Sandinistas. (Applause.) I think they would say that when a small communist clique seizes a country there is no self-determination, and no chance of it.

I believe that a vote against this aid is more than a rejection of the freedom fighters. It is a rejection of all the forces of moderation from the church to the Contadora countries, which have called for freedom and democracy in Nicaragua. (Applause.)

I believe one inevitable outcome of a rejection of this aid would be that it would remove all pressure on the Sandinistas to change. And if no constraints are put on the Sandinistas, I believe the brutality and abuse they already aim at their own country and their neighbors may well be magnified a thousandfold.

I truly believe the history of this century forces me to believe that to do nothing in Central America is to give the first communist stronghold on the North American Continent a green light to spread its poison throughout this free and increasingly democratic hemisphere. (Applause.) I thank you. Thank you. I truly believe that this not only imperils the United States and its allies, but a vote against this proposal is literally a vote against peace because it invites the conditions that will lead to more fighting, new wars, and new bloodshed.

This vote (applause) this vote is more than an appropriation of money. Through this vote, America will declare her commitment to peace. And through this aid, we will say to the free people of Central America, "We will not betray you. We will not leave you. And we will not allow you to become victims of some so-called historic inevitability." (Applause.)

No evil is inevitable unless we make it so. We cannot have the United States walk away from one of the greatest moral challenges in post-war history. I pledge to you that we will do everything we can to win this great struggle. (Applause.)

And, so, we're hopeful. We will fight on. We'll win this struggle for peace. Thank you for inviting me.

Viva Nicaragua Libre. Thank you, and God bless you. (Applause.)

And, now, I want to help Ambassador Davis, who I believe is going to give the first ever "Nicaraguan Refugee Fund Humanitarian Award". And it goes this year to the Executive Director of "Friends of the Americas", Diane Jenkins. (Applause.)

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Attachment II-1

REVIEW OF US FOREIGN POLICY, HEARING BEFORE THE COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, NINETY-SEVENTH CONGRESS, FIRST SESSION, NOVEMBER 12, 1981

Mr. Studds. I couldn't possibly support anything that sounds that multisyllabic and horrible, no.

Secretary *Haig.* That is the first real compliment I have had from you.

Mr. Studds. Let me ask you this, having failed with that one. As you know, rumors persist throughout Central America that the military in Honduras may not permit the elections that are scheduled in that country for November 29 to be held or that they might not sanction the results of those elections.

The United States, quite properly in my judgment, supports those elections. Are you willing, as Secretary of State, to say that in the event that the military in Honduras should prevent the elections or should fail to recognize their results, the United States would seriously reexamine its increasingly close relationship with the Honduran military?

Secretary *Haig.* I am not prepared to make that statement today, Mr. Studds.

Mr. Studds. OK, let me try Nicaragua. We have been criticizing Nicaragua for building up its military. You yourself have done so. Nicaragua, as you know, says that they fear a direct or indirect attack from the United States as well as destabilization efforts aimed at the current government from exiles in Honduras and in Florida, among other places.

Can you provide this committee and this Congress with an assurance that the United States is not and will not participate in or encourage in any way, directly or indirectly, any effort to overthrow or to destabilize the current government of Nicaragua?

Secretary *Haig.* No, I would not give you such an assurance, but that must not be interpreted by mischievous inquisitors to represent an articulation of a policy one way or the other. Just merely it would be a self-defeating statement by a responsible executive branch official.

Mr. Studds. We couldn't have that. I would take the reference to mischievous inquisitors to be reference to the press and not the members of the committee who are asking.

Secretary *Haig.* If the shoe fits, it can be worn.

Mr. Studds. I will try it on. My point, I guess, is pretty obvious. It seems to me that the failure of the United States to respond clearly and directly to, for example, the three illustrative and straightforward questions which I just posed to you is contributing directly to a growing tension in Central America. I simply asked you to reaffirm the support of the United States for principles of democracy, for peaceful resolution of conflicts, for nonintervention in the affairs of other States, and in each of those instances

Secretary *Haig* [interrupting]. That I have no trouble

Mr. Studds. I know you haven't. At that level of generality it is fine, but in each of the three specific instances which I asked you that, you declined to give me explicit assurance.

Secretary *Haig.* It seems to me, Mr. Studds, that you should be concerned about the mounting evidence in Nicaragua of a totalitarian character of the Sandinista regime. Now, if you are espousing policies that would support that trend, then I would be rather concerned about your

Mr. Studds. Mr. Secretary, I am not espousing any policies. I am trying to elicit what the policies of my Government are. In my own judgment, if it is material, many of the actions by the current Government of Nicaragua are indefensible.

Secretary *Haig.* I am glad you

Mr. Studds [interrupting]. But I must ask if you have seen the cartoon where a patient is talking to a psychiatrist and he says, "Doctor, what do you call it when you think everybody is after you and they are?"

And it seems to me

Secretary *Haig* [interrupting]. Probably he lives in Washington.

Mr. Studds. Yes, I do believe that we ought to take a careful look at our own unwillingness to clearly state that we will not intervene, we will not destabilize, we will not continue to fuel violence. That we support unconditional talks aimed at a peaceful resolution of a tragically violent conflict. We are asking the region of Central America to choose between Fidel Castro and Ronald Reagan, and I submit to you that we are making Mr. Castro look a lot better than he deserves to look.

Secretary *Haig.* I probably agree with that under any set of circumstances, but I hope, Mr. Studds, that you understand that the policies we are pursuing in this hemisphere, both with respect to Mr. Castro and the increasingly totalitarian regime in Nicaragua are designed to preclude the outcome of totalitarianism, and to espouse and further the basic values of the American people.

Now, the fact that you differ as an individual with how best to accomplish that is, of course, your prerogative, but I can assure you that if motives are being questioned you are on the wrong track.

Mr. Studds. Let me just say motives are not being questioned, but if it is the judgment of this administration that our policies in El Salvador reflect the values of the American people, then I must submit that I have a very different picture of those values.

Secretary *Haig.* You know as well as I that on two occasions in the very recent past we have discussed this issue with the Nicaraguan Government, and in the wake of those discussions, which included the potential for complete normalization, economic support, and a dialog of a constructive character, that they have responded by flaunting the actions that I outlined here in response to an earlier question, and that is a fact. That is a fact, and I am shocked that you haven't even made reference to those efforts, which you know about.

Mr. Studds. My time is up.

Mr. Fountain. Mr. Barnes.

Mr. Barnes. Mr. Secretary, I want to follow up on Mr. Studds' questions. I chair the Subcommittee on Inter-American Affairs, and I have been meeting on a regular basis with representatives of the Government of Nicaragua, and the Cubans having been around to see us.

As you know, there has been a lot of speculation in the press that we are about to engage in some military action. Most of us have been assuring them that that was extraordinarily unlikely, and we have had briefings by your subordinates suggesting that that was extraordinarily unlikely. But based upon your responses this morning to questions from Mr. Fountain, Mr. Lagomarsino and Mr. Studds, if I were in Nicaragua I would be building my bomb shelter this afternoon.

Secretary *Haig.* I would hope you would be pluralizing your site.

Mr. Barnes. I would hope they would do that as well, Mr. Secretary. Certainly, as you know, our subcommittee and members of this committee have expressed our concern with respect to some of the points you have raised today. Specifically, most of the members of this committee joined me in sending a cable to Nicaragua recently expressing our concern with respect to arrest and sentencing

Secretary *Haig* [interrupting]. I compliment you on that.

Mr. Barnes [continuing]: of the private sector leaders. But nonetheless your response to questions this morning certainly fuels the speculation and concerns throughout the Western Hemisphere about possible military action by the United States.

Secretary *Haig*. Mr. Barnes, as recently as yesterday — the day before, excuse me — the President of the United States addressed this issue, and he unequivocally stated to the American people that there are no plans for the employment of American forces anywhere worldwide, and I think that answer should stand here today, and I wonder what you are trying to drive at.

Mr. Barnes. Well, there are rumors just rampant throughout this town — and you point out it is a town that is always full of rumors — that we are seriously contemplating, if we have not already decided, to institute a military blockade in the Central American region aimed at Nicaragua. Would you be prepared to state this morning that we are not, that we have not planned to do that and we are not going to do that?

Secretary *Haig*. I am not prepared to say anything. I think the President has addressed the issue, and I think you know that, and I think if you are trying to create circumstances to reassure those régimes who have thus far been undeterred in their drive towards establishing a totalitarian régime in this hemisphere, why, I question whether or not we are on a sound course.

Mr. Barnes. Mr. Secretary, in your opening statement you make some very constructive points with respect to the need to have the resources to carry out our foreign policy, and I certainly want to salute that. I am concerned, however, that in specific instances we are going in precisely the wrong direction. I am informed by everyone who is close to the situation that Costa Rica, for example, is going bankrupt and has a very short time before it goes over the brink.

My perception is that it seems to be a matter of indifference to this administration whether what is a bastion of democracy in this region, very close to the United States, survives at all economically. The administration has proposed no ESF for Costa Rica, and has cut development assistance for that country by a magnitude that is exceeded in percentage terms only by the cuts for Nicaragua. Why is this happening?

Here is a country that stands for everything we believe in, that has been helpful to us in the international organizations time after time, that is in desperate financial shape, and we ought to be responding not tomorrow, but yesterday. What is going on?

Attachment II-2

September 12, 1983.

NEWS RELEASE, OFFICE OF ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS), REMARKS PREPARED FOR DELIVERY BY THE HONORABLE FRED C. IKLE, UNDER SECRETARY OF DEFENSE FOR POLICY, TO BALTIMORE COUNCIL ON FOREIGN AFFAIRS, BALTIMORE, MARYLAND

. . . .

Another bit of fiction: that the Sandinista régime in Nicaragua would have developed into a pluralistic democracy, had it not been for the U.S. intervention. The fact is that the Sandinistas, only a few weeks after they came into power, reneged on their promise for early elections, began to attack the democratic trade unions, and invited Cuban military and security personnel in steadily growing numbers. Yet, during the first 18 months of the Sandinista régime, the United States provided more than $120 million in direct aid and endorsed over $220 million in Inter-American Development Bank aid — more than the previous Somoza régime in Nicaragua had received from the United States in 20 years! Clearly, it was not U.S. interference that drove the Sandinistas to link up with Fidel Castro — unless economic aid is regarded as "interference".

. . . .

The Sandinista régime in Nicaragua is determined to create a "second Cuba" in Central America. Ever since they seized power, the Sandinistas embarked on a major military buildup. Today, they have a much larger army than Somoza ever had, and they have expressed the intention to build the largest force in Central America. Nicaragua is building new military airfields, and is importing Soviet tanks, helicopters, armored vehicles and other equipment.

This "second Cuba" in Nicaragua would be more dangerous than Castro's Cuba since it shares hard to defend borders with Honduras and Costa Rica. The Sandinistas have already started terrorist activities in both these countries. In addition, Nicaragua provides essential support for the insurgency in El Salvador.

Even after the insurgency in El Salvador has been brought under control, Nicaragua — if it continued on its present course — would be the bridgehead and arsenal for insurgency for Central America. And once the Sandinistas have acquired the military strength that they have long been planning for, they might well use that strength for direct attacks on their neighbors to help speed up the "revolution without frontiers" that they promised us.

Congressional legislation to deny U.S. support to the democratic resistance forces in Nicaragua would turn Nicaragua into a sanctuary from which the nations of Central America could be safely attacked, but in which U.S. supported forces could not operate. This would enable the promoters of totalitarianism — while being supplied and replenished by Cuba and the Soviet bloc — to attack neighboring countries indefinitely, and always with impunity. Hence, it would deprive the Marxist groups in El Salvador of any incentive to compromise. Indeed, if such legislation were passed, the Sandinistas and Cubans might well find it safe to *increase* their assistance to the insurgents in El Salvador and to step up the destabilization of Honduras and Costa Rica. This, after all, would be fully consistent with their presently declared objectives; and the guaranteed sanctuary would render such escalation almost risk-free.

Attachment II-3

March 20, 1984

No. 82

PRESS CONFERENCE BY THE HONORABLE GEORGE P. SHULTZ, SECRETARY OF STATE

Secretary *Shultz:* In San Salvador a few weeks ago, I minced no words in saying that death squads and terror have no place in a democracy. The time has come to be equally blunt about what needs to be done here in Washington to prevent new Cubas in Central America. This Administration, the last Administration, and a 12-member Bipartisan Commission, which studied Central America for five months, have all concluded that important US interests are at stake. If regimes responsive to Moscow and Havana, and hostile to the United States, are installed in Central America, we will pay a high price for a long, long time.

The irony is that the price to avoid new Cubas is still relatively small, and that we can still pay it by supporting a policy that is fully consistent with our ideals and with a search for political solutions.

The people of El Salvador vote Sunday for president and vice president. The choices are real, and the balloting will be fair. The outcome is not a foregone conclusion. Whoever takes office in June will have the legitimacy of proven support from the people of El Salvador. We and everyone else will have to recognize that fact in evaluating our policies and interests.

The election, however, is not being fought just among candidates who have agreed to support the voters' decision. It is being violently opposed by a guerrilla minority that refuses to put its program to the test of the ballot box. The guerrillas have pulled some spectacular raids, but the army has been doing what counts — protecting the cities, the harvest, and the peoples' right to choose. Despite an upsurge of guerrilla terrorism against elected officials, civilian deaths from all political causes for the month of February were the lowest in several years — less than one-third those of February a year ago, and one-tenth those of three to four years ago.

There is nothing unexpected about the need for more aid to El Salvador. We knew, and the Congress knew, that the assistance authorized last fall would run out this spring. It was understood that we would reevaluate our needs after the Bipartisan Commission had made its findings.

In January, the Bipartisan Commission recommended unanimously that we provide El Salvador "significantly increased levels of military aid as quickly as possible" — that's underlined on my sheet here because it's underlined in the report. In February, the President sent Congress a supplemental request for El Salvador as part of his comprehensive program to implement the Bipartisan Commission's recommendations. It is now obvious that Congress will not act on this legislation before June at the earliest, and deliveries will take time after that.

Events in Central America simply will not wait that long. There is a gap between what is needed on the ground and the pace of the legislative calendar. So we identified what is needed now to help El Salvador continue on its chosen path to democracy, and to keep the pressure on Nicaragua to negotiate.

The national interest is clear. I call upon the Congress to approve the $93 million in emergency security assistance for El Salvador so that its armed forces can protect the people and the leaders they choose. And I also call upon the Congress to recognize the validity of the struggle of those Nicaraguans who are resisting totalitarianism. To delay these funds is to hinder prospects for peace and negotiations, to prolong suffering, and to strengthen the hand of our adversaries.

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Question: I would like to ask about El Salvador. The armed forces are continually on the defensive against the guerrilla troops. There continue to be charges that the officials are linked to the death squads there. In Nicaragua the continued resistance still has made only what the State Department calls "tactical changes" in the Sandinista's behavior.

What evidence do you have that additional money will be spent more effectively or will achieve the goals you have in mind for that region?

Secretary *Shultz:* I think the Salvador armed forces are effective and have been basically doing a better and better job. One recent piece of evidence of a different sort than is usually cited is that of some 260, I think it is, municipalities where ballot boxes will be placed for the election, for a while it was thought that there were 70 places where you couldn't guarantee the security of those, due to guerrilla activity. That estimate is now scaled down to around 20, due to the efforts of the armed forces to secure security for this election. And I might say those 20 are in lightly populated areas and provisions are being made so that people there can vote.

But I think it is the case that the Salvador armed forces are giving a credible account of themselves and will do better and better if they get our support. We have to recognize that, granting all of the difficulties they have, it's still the case that we have a process here in our support for them of creating a kind of maximum of uncertainty in their minds about what the flow of resources is going to be, and that causes great difficulties in planning. And take the situation right now — they have to make a choice. Do we take the resources we have and operate at a very meager, low level so as to stretch them out, or do we say we have to go all out to protect this election and spend what we've got to do it and take the chance on simply running out? And that's not a good position to place them in.

So I think they're giving a much better account of themselves than the nature of your question implied.

Question: Mr. Secretary, to follow up on that, if the Congress refuses to act in a timely fashion on the Administration's request, is the Administration prepared to use its emergency powers, 506 determination, Section 21d, in order to provide aid for the Salvadoran military?

Secretary *Shultz:* Well, our effort is to get the Congress to vote for this money — it's needed — and that is our concern, and I think that it is something that the Congress ought to step up to and step up to promptly, and that's where we're going to place our emphasis. And we will proceed in a fashion that — in which we expect to get favorable votes on that money.

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Attachment II-4

ADDRESS BY AMBASSADOR JEANE J. KIRKPATRICK, UNITED STATES PERMANENT REPRESENTATIVE TO THE UNITED NATIONS, AT THE AMERICAN SOCIETY OF INTERNATIONAL LAW, WASHINGTON, DC, APRIL 12, 1984

Writing in *New York* magazine last September, after a visit to Nicaragua, journalist Michael Kramer wrote:

> "Those who dismiss the Sandinistas extraterritorial revolutionary rhetoric are deluding themselves. When Commandante Bayardo Arce says, 'We will never give up supporting our brothers in El Salvador', he means it. And Sandinista Defense Minister Humberto Ortega is equally serious when he says, 'Of course, we are not ashamed to be helping El Salvador. We would like to help all revolutions'."

"In practice, such words," Kramer continued, "have translated into supplying Salvadoran guerrillas with whatever they need."

The question of whether there is or is not a pattern of armed attack, a consistent determined pattern of armed attack by Nicaragua against her neighbors, is one that has been definitively answered by the evidence which is available in the world today, in public as well as through intelligence sources. Already by late 1979, at a time when the Carter Administration was providing Nicaragua with large amounts of economic assistance, the Sandinistas had already initiated the build-up of a military machine vastly superior to that of any other country in the region. I might just remind you that the United States provided the régime of the government of Nicaragua more economic assistance in the first two years of its life than did any other country. I might remind you further that the United States supported, in international fiscal institutions, successful Nicaraguan loan applications, more economic assistance for the government of Nicaragua than the Somoza government had received from those same international fiscal institutions in the preceding 20 years.

To build this machine, the Sandinistas shunted aside offers of modest security assistance from allies in the region and instead established military ties with the Soviet Union and invited thousands of Cuban military, security and intelligence advisers to help in the establishment of the new system. They sought and received massive infusions of Soviet military equipment, and now boast that they have acquired an armored brigade and an artillery brigade. Much of this equipment arrived between 1979 and 1982 — when no significant armed opposition whatsoever existed, and when in fact many of those who are now in active opposition to the Nicaraguan government themselves occupied positions in the Sandinista government. The most dramatic examples of that probably would be Alfonso Robelo, Eden Pastora and Arturo Cruz.

In June 1980, the Sandinistas invited the Salvadoran guerrillas to set up command and control headquarters in the Managua area, and Nicaragua and Cuba began at that time their full-scale support of El Salvador's FMLN, including the training and provision of arms and supplies. This command center for the guerrilla war against the Government of El Salvador continues to operate in and from Nicaragua. Confronted with repeated denials by the government of Nicaragua that a command and control center from which communications directing the guerrilla war in El Salvador existed, in July 1982, the United States Government offered to send a technical team to Managua to help the Sandinista government locate the center. The offer was ignored.

In 1980 and 1981, Nicaragua and Cuba engaged in massive airlifts of arms and supplies to Salvador's guerrillas from Papalona Airfield in Nicaragua, with the objective of preparing the guerrillas for a large-scale January 1981 offensive. In addition, of course, the sabotage attack on Ilopango Airfield in El Salvador, which destroyed El Salvador's military air capabilities at the time, was planned in Cuba, and Cubans and Nicaraguans were the principal, technical help for carrying out that attack and continue to be the main source of support for the guerrillas.

In early 1981, the Sandinistas began aggressively to violate Costa Rica's treaty rights to use the San Juan River, which divides Nicaragua and Costa Rica on their Caribbean coast. Since then Costa Rican ships have been harassed, stopped, sometimes seized, on the Rio San Juan.

In 1982, the Nicaraguan government initiated activities designed to destabilize and intimidate the Costa Rican Government. On July 4, 1982, for example, Nicaraguan agents were directly involved in the bombing of the offices of a Costa Rican airline in San José. Two Nicaraguan diplomats were subsequently expelled from Costa Rica for their involvement. The Nicaraguans also kidnapped an Argentine diplomat, forced him to make false statements regarding the anti-Sandinista movement and subsequently assassinated him.

In June 1983, the Sandinistas infiltrated into Honduras a 100-man guerrilla force trained in Cuba and Nicaragua as a first step toward destabilizing the Honduran Government. This force was intercepted by the Honduran military, which captured numerous documents and diaries of the guerrillas, clearly showing the intent of the operation, as well as the Cuban and Nicaraguan involvement in it.

Earlier, the Honduran Government had catalogued well over 100 cross-border incidents between September 1981, and June 1982, which had been initiated by the Sandinistas, ranging from indiscriminate firing on Honduran border posts to the entry of Sandinista troops well within Honduran territory to steal cattle, kidnap campesinos and terrorize the border population.

In December 1983 (I am choosing some examples almost at random), a group of some 2,000 Miskito Indians fled their concentration camps — and it is not too much to call them that — at Francia-Sirpe, Nicaragua, and took refuge in Honduras at the Mocoron Refugee Camp. The Nicaraguan government strafed the refugees from airplanes to prevent their escape. Having failed to halt the refugee column, they then sent armed troops into Honduras in an effort to bring back at least some of the refugees. That effort also failed, but the Sandinistas had again violated Honduran soil.

During 1984, Nicaraguan troops have moved the international boundary markers separating Nicaragua from Honduras from their rightful places in Honduran territory by as much as a third of a mile, after which Nicaraguan troops then occupied the new border area.

There are many other examples, including some in 1984, of such Nicaraguan activities and threats. During the months of February and March, 1984, the inhabitants of the eastern Honduran towns of Matadenguello, Porfordedonda, Padreas and Pueblo Nuevo were forced to abandon their houses because of constant harassment from the Sandinistas, who even used a Honduran school building as a temporary garrison. Evidence that Nicaraguan forces are relocating border markers in the area south of the Lafertrinidad and El Espino crossing points have multiplied. In some cases the border markers have been placed as much as one kilometer inside Honduran territory. At such a point Sandinista military forces will establish an observation post on a hill in Honduran territory and fire on Honduran civilians in the area from across the border.

On March 23, Daniel Ortega warned Costa Rican President Luis Alberto Monge that other Central American ports might be mined by insurgent groups acting in solidarity with Nicaragua.

As of this time, there is not a scintilla of evidence to suggest that any of the Nicaraguan activities in support of armed attack against her neighbors, especially El Salvador, have ceased. Continued Nicaraguan oppression and forceable relocation of the Miskito, Sumo and Rama Indians in eastern Nicaragua has led to the continued flight of thousands of Indians, of course, into Honduras. A new group of more than 1,000 Indians arrived in Honduras only ten days ago, as we were, in fact, discussing Nicaragua's complaint against the United States in the Security Council.

The supplies from Nicaragua for the Salvadoran insurgency arrive by air, by sea and by land. They arrive by small planes, such as Cesnas, which land on dirt roads and fields and off-load their arms. Bundles of materiel are dropped from these small aircraft to insurgents operating in El Salvador's rural areas where there are no fields or airstrips or roads available. Small boats and dugout canoes are used to ferry arms from Punta Cusiguina in Nicaragua across the Gulf of Fonseca to El Salvador and further up the coast. Larger quantities of weapons and supplies load and leave from Nicaragua's now famous west coast ports on ocean-going vessels for movement north; lighter and smaller craft land along El Salvador's Pacific beaches. By land, munitions and materiel have been intercepted during transit during the shortest distance between the northwest Nicaraguan and southeast Salvadoran borders, by way of Honduras, and so forth and so on.

There is ample evidence from a number of sources, including Salvador guerrillas who deserted or were captured, including all the kinds of intelligence available in the contemporary world, that the Sandinistas continue to provide a regular supply flow to the Salvadoran insurgency: arms, ammunition, food, medicine, clothing, whatever.

The evidence that Nicaragua is involved in promoting armed insurgency in El Salvador is truly beyond dispute. Last May 13, the Permanent Select Committee on Intelligence of the House of Representatives issued a report which concluded:

> "The Sandinistas have stepped up their support for insurgence in Honduras and the Cuban-Nicaraguan aid for insurgence constitutes a clear picture of active promotion for revolution without frontiers throughout Central America by Cuba and Nicaragua."

The same House Committee also reiterated its earlier finding that the guerrillas in El Salvador are "well-trained, well-equipped with modern weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support". The House Committee said, "the intelligence supporting these judgments provided to the Committee is convincing".

Just last week, a democratic member of the Senate Intelligence Committee stated that it was the Committee's judgment that "Nicaragua's involvement in the affairs of El Salvador, and to a lesser degree its other neighbors, continues". Specifically, arms and materials still flow from the communist bloc through Nicaragua to the insurgents in El Salvador. What the House Intelligence Committee stated last May is still true. The insurgency in El Salvador, then, depends for its life blood, arms, ammunition, financing, logistics, command and control, communication upon outside assistance, in a pattern of armed attack from Nicaragua and Cuba.

It is worth noting in this context that the National Bipartisan Commission on Central America concluded unanimously "that Nicaragua is a crucial stepping stone for Cuba and Soviet efforts to support armed insurgency in Central

America". Recently, the military assistance provided by Nicaragua to the guerrillas in El Salvador has been used by the guerrillas to sabotage the democratic political process taking place in that country. Since the beginning of the year, Nicaraguan-supported terrorists in El Salvador have assassinated three members of the Constituent Assembly, a military judge and a campaign organizer.

Under the slogan "Electoral Farce, No; Popular War, Yes", the armed insurgents in El Salvador did everything possible to disrupt the March 25 election and to reduce voter turnout. That included, of course, mining roads, threatening drivers and gas station owners for selling fuel, and setting off bombs and threatening further bombs. On election eve, soldiers stationed in Teguetepeci were killed and inhabitants prevented from voting. Guerrilla sabotage caused about 80 per cent of the country to be blacked out for over 12 hours immediately preceding the opening of the polls. This loss of electrical power severely disrupted the final sorting and dispatch of voting materials and obviously had a part of the desired effect on the timely arrival of voting materials to some polling places. In spite of all of this, as everybody knows, some nearly one-and-a-half million Salvadorans, over 75 per cent of the eligible voters, actually cast their ballots in what a Colombian delegation called an "impressive demonstration of the will of the Salvadoran people to find a democratic solution".

The search for a democratic peaceful solution is not shared by the government of Nicaragua. The nature of the conflict in Central America and the consequences of the pattern of, and commitment to, armed attack is reflected in the contrasting policies of the Nicaraguan and Salvadoran Governments toward the participation of armed opponents in their election processes. In response to a declaration by the armed opposition — the so-called *contras* in Nicaragua — that they were prepared to lay down arms if they could participate in a peaceful political competition for power and help settle Nicaragua's political question through the ballot box, the government of Nicaragua announced that such opponents would not be permitted to participate under any circumstances and would instead be tried *in absentia* as criminals. The Government of El Salvador took exactly the opposite position and actually invited the armed opposition to participate in the election on condition only that they lay down their arms and agree to peaceful political competition.

It seems perfectly clear, therefore, that to portray Nicaragua as a victim in the current situation is a complete Orwellian inversion of what is actually happening in Central America. There can be no question by reasonable persons that Nicaragua is engaged in a continuing, determined, armed attack against its neighbors, and that under the Charter of the United Nations, if not according to the laws of the class struggle, those neighbors have the right of individual or collective self-defense. For Nicaragua, the party that has initiated the violation of international law through the use of violence against its neighbors, to seek recourse before the International Court of Justice amounts to nothing more or less than a cynical effort aimed at influencing world opinion, Congressional votes, and performing all the other functions of propaganda. Nicaragua seeks, in short, to use the Court in a blatantly propagandistic manner.

The problem, really, is what we can and should do about this pattern of action. Obviously, if international law is to have relevance in the contemporary world, it must be protected against those who would subvert its fundamental purposes by using it as an instrument to legitimate aggressive violence and to delegitimate the use of force in self-defense. These problems were not really foreseen by the authors of the Charter of the United Nations, and yet versions of these same problems confront those of us who try in fact to work in the United Nations and through the Charter on a continuing, almost weekly basis.

I would like to discuss briefly some less sensational aspects of these problems now, and begin with an aspect of US participation in the United Nations which has received less attention than it deserves. I will begin in 1962, when the International Court of Justice had just decided in the so-called "Certain Expenses Case", in which the Court held that the United Nations' peacekeeping operations in the Congo were a legitimate expense of the United Nations and that the Soviet Union therefore could not lawfully refuse to pay its share of the expenses. Now, the Soviet Union at the time chose deliberately to ignore that judgment of the Court and to this day refuses to pay its share of any United Nations' peacekeeping operations, which are, of course, part of its assessed budget. Soviet refusal to comply with the ruling of the World Court and the inability of the United Nations to do anything about it caused many in Congress at that time to urge US withdrawal from the United Nations. Many in Congress could not bear the idea of a double standard whereby the United States would continue to foot a major portion of the United Nations' bills while the Soviet Union was free to disregard its obligations.

Faced with this problem, which might have led to the breakup of the United Nations, Justice Arthur Goldberg was persuaded to leave the United States Supreme Court for two reasons: to save the United Nations from this crisis and to help extricate us from Vietnam. In his first move as US Ambassador to the United Nations in 1965, Justice Goldberg succeeded in achieving an understanding with Congress in what has come to be known as the "Goldberg Reservation". That declaration, contained in the President's 1965 Report to the Congress on US Participation in the United Nations, states:

> "If any Member can insist on making an exception to the principle of collective financial responsibility with respect to certain activities of the Organization, the United States reserves the same option to make exceptions to the principles of collective financial responsibility, if in our view strong and compelling reasons exist for doing so. There can be no double standard among the Members of the Organization."

In this regard, I will say a few words about the matter of the US decision to modify its voluntary decision to accept the jurisdiction of the World Court. Much like the recent US veto at the United Nations, it is not the United States which has abused adherence to the compulsory jurisdiction of the Court. The vast majority of nations, some two-thirds of them, do not even submit to the voluntary jurisdiction of the Court. And even in cases where others have agreed to the Court's jurisdiction, many States have attached reservations and others have not complied with the decisions of the Court.

On this subject, it is interesting and instructive to look at the list of nations which have in fact agreed to accept the jurisdiction of the International Court and also those among them, approximately 50 out of 158 members of the United Nations, which have filed reservations. I might just mention a few; I've got the list. Among the countries which have entered reservations are: Australia, Barbados, Botswana, Canada, Colombia, Denmark, Dominican Republic, Egypt, El Salvador, Finland, Gambia, India, Israel, Japan, Kampuchea, Kenya, Liberia, Liechtenstein, Luxemberg, Malawi, Mauritius, Mexico, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, Portugal, Somalia, Sudan, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom and the United States. And I don't think that's an exhaustive list, by the way.

The point is that here, as in so many other cases involving the United Nations, it is suggested that the United States be held to standards to which other nations do not submit themselves and to which there is little serious suggestion that they be held. In fact, the United States has complied with decisions of the Court even, generally speaking, when we have not regarded the decision as in our best interest. The selectivity of the application of standards in the United Nations, unfortunately, has spread to most of its bodies.

Last week, in vetoing the resolution of the United Nations, which condemned mining in El Salvador, the United States made the following statement:

> "The United States would have no problem with this resolution, if it were concerned with all of the violence in the region, if its object were respect for the sovereignty and territorial integrity of all countries in the region and not simply Nicaragua. But this resolution expresses no concern for the many attacks on El Salvador, or on El Salvador's electoral process, or the continued violations of that country's sovereignty and territorial integrity by Nicaragua's continuing shipment of arms to El Salvador. Surely, the international community has its interest in these . . . The resolution before us last week [we said] expresses no concern for the repeated violations of the borders of Honduras or Costa Rica, but surely the United Nations Charter applies to those."

. . . .

Attachment II-5

New York Times, April 17, 1984.

TEXT OF STATEMENT BY CIA

Washington, April 16 — Following is a statement today by George Lauder, the Central Intelligence Agency spokesman, on behalf of the agency concerning its efforts to keep appropriate committees of Congress informed of CIA covert operations:

During the 13 January 1981 Senate Select Committee on Intelligence hearing on the nomination of Mr. Casey to be Director, CIA, Mr. Casey said:

> "I intend to comply fully with the spirit and the letter of the Intelligence Oversight Act. I intend to provide this committee with the information it believes it needs for oversight purposes."

Mr. Casey believes the record will reflect that he and his staff have kept that pledge. A chronology of briefings of the Congressional oversight committees in connection with events in Central America reveals that from December 1981 through March 1984, either the director or deputy director briefed the Congressional committees 30 times on Central America.

Moreover, from 16 September 1983 through 2 April 1984, other officials of CIA briefed either the committees or the committee staff 22 times on Central American developments. Since the first of this year, the subject of mining of Nicaraguan ports has been discussed with members or staffers of the committees and other members of the Congress 11 times.

Largely in order to keep the Congress satisfactorily informed on the agency's activities, the director has continually strengthened the CIA's Congressional liaison office. This office has been in virtual daily contact with staffers of the House or Senate oversight committees as well as staffers and members of other committees of the Congress. The obligation to keep the oversight committees fully informed has, as it has evolved in practice, been met by briefings of the staff, responding to their oral and written questions, and by providing updates on developments and answering any and all questions at meetings called by the committees.

There has been no reluctance to share information with them. As has been reported in recent days, members of both committees have affirmed that this process has made the required information available.

Attachment II-6

(EXCERPT FROM NOON PRESS BRIEFING, MAY 10, 1985 SPOKESMAN WAS JOHN HUGHES)

Have a statement on the International Court of Justice action this morning.

As the Department's Legal Advisor Davis Robinson's statement in The Hague indicated earlier today, we will have to withhold full comment on the decision until we've had an opportunity to review the lengthy opinion and its implications. As a matter of fact, we haven't even received the full text of the statement in Washington yet.

However, at this point, we would like to make some preliminary observations.

The first is that the United States respects the Court and the rule of law and intends to act accordingly.

The Court has not made a decision regarding jurisdiction, and we regret that the Court has denied the United States' request that the case be dismissed at this time. However, we call attention to the fact that the Court noted that a number of issues which merited examination had been raised with respect to jurisdiction and that the Court intends to pursue that issue. And, of course, there was no decision on the merits or judgment on Nicaragua's allegation that the United States had done anything illegal.

With respect to the provisional measures enumerated in the decision, we'll need to examine them carefully, but we note that the decision refers to the rights of all States to be free from the threat or use of unlawful force and that the Court called on both the United States and Nicaragua to refrain from actions which could extend or aggravate the dispute before the Court.

The principles articulated are based on the United Nations Charter, to which we subscribe. Our initial reaction is that nothing contained in the measures indicated by the Court is inconsistent with current United States policy or activities with respect to Nicaragua.

We will be asking the Court quickly to decide the fundamental issue of its jurisdiction. We will be meeting with the Court tomorrow to develop a schedule for further proceedings in this case on that issue of jurisdiction.

The United States continues to believe that the best prospect for resolving the political, social, and economic problems that plague the nations of Central

America, including Nicaragua, is through serious negotiations in the Contadora Process. We hope that the Government of Nicaragua will respond to the Court's decision by making a serious effort to advance the regional negotiating process in co-operation with the Contadora Process.

That's all I have for you.

Question: John, you've left me confused, which may have been your intention, but what you're saying is that the only thing you believe the Court dealt with today was the US decision to remove itself from jurisdiction for two years?

Answer: It has not ruled instantly on the matter of jurisdiction, that is. It is obviously going to consider that in due course, we hope speedily.

Question: It was my understanding that when you made that announcement that you were removing yourself from jurisdiction for two years on decisions involving Central America, it was a unilateral decision not to be dealt with by the Court but an announcement that the United States would not accept jurisdiction?

Answer: Well, we were notifying the Court of that action, and we are taking — have taken our case to the Court and are going to continue to argue that with the Court.

Question: And what you're saying is that the only issue which was dealt with today was that jurisdiction?

Answer: There were these provisional measures indicated. And, as I said, we do not consider that those are inconsistent with current United States policy and activities with regard to Nicaragua.

Question: John, isn't — the decision said that the US should stop essentially interfering in Nicaragua. It's a sort of restraint order. Isn't that the thrust of it?

Answer: Well, the — I refer you to the Court and statement. As I say, we've seen what you have. We don't have the full text. I understand it's about 40 pages or so.

Question: There's nothing in that restraint order —

Answer: That we consider to be inconsistent with current United States policy and activity with regard to Nicaragua.

Question: With respect to that, John, the first unanimous judgment says, and I quote: "The United States of America should immediately cease and refrain from any action restricting blocking or endangering access to or from Nicaraguan ports", etc.

I take what you just said as meaning that the United States is in no way pursuing activity that is inconsistent with that at the present time. And my question is, if that correction — if that interpretation is correct — my question is, will the United States abide by that ruling pending the settlement of the jurisdiction issue at least?

Answer: As I say, we haven't seen — we wanted to give you some provisional and early response, and we haven't seen the full text, and we want to take a look at it. But I think that our words speak for themselves. I've told you the United States respects the Court and the rule of law and intends to act accordingly. I think that statement is quite clear.

Question: John, you're accepting, then, that judgment?

Answer: I think our words are quite clear.

Question: Yes. Let me just — I'm sorry. So, in other words, even though you said that, in your initial statement to the Court, that you did not want to accept any Court ruling on Central American issues —

Answer: Well, we have taken our case on jurisdiction to the Court.

Question: Yes. So (inaudible).

Answer. It is not a question of saying we don't accept jurisdiction or not making that case for the Court.

Question. You're not saying, whatever they decide, you're not going to carry out?

Answer. I'm not saying that, no.

Question. John, are you stressing the fact that the ruling is not inconsistent with current US policies in regard to Nicaragua because, as a matter of simple fact, the mining has stopped?

Answer. As you know, we have not responded to questions relating to mining and alleged covert activity, but I think you might read the statement concerning current activity in conjunction with allegations that have been made.

Question. Is it consistent to continue to seek additional funds for the *contras*?

Answer. Yes, it is.

Question. John, are you saying that if the Court decides that it has jurisdiction, that you will then abide by its decision?

Answer. I'm saying that we respect the Court and the rule of law, and we intend to act accordingly. And what we're going to do now is press for resolution on the matter of jurisdiction.

Question. John, when did the phrase "current policy and activities" begin? Can you give us a date of what "current" means — when that started? We understand that means today, but —

Answer. I can't. This is today's statement and speaks for itself.

Question. So, it's at least as of today, but you're not making any comment as to how much before today the US policy was consistent with the ruling?

Answer. No.

Question. John, on the question of jurisdiction, are you saying in that statement that the United States now recognizes the World Court's right to refuse to accept the unilateral statement made previously by the United States?

Answer. What we're saying is that we are arguing the case on jurisdiction before the Court, and we fully expect that that argument will proceed expeditiously.

Question. And by arguing it in the Court itself, is that not implicitly accepting the Court's right to accept or reject the US unilateral statement?

Answer. We respect the Court and the rule of law and we expect to act accordingly.

Question. Do you still reserve the right to ignore the Court, John, to ignore the Court's findings?

Answer. I will leave you with our statement concerning respect for the Court and law.

Question. I have a question which perhaps you should clarify with respect to, I think it was Barrie's question. He asked you, is it consistent with seeking additional funds for the *contras*, and your reply was, "Yes". Do you want to stick with that statement?

Answer. There is no change in the Administration's request for funds in connection with that particular activity. There is no change in that.

Question. Another area.

Question. Wait a minute. The Court ruling today used the phrase "paramilitary activity" in connection with Nicaragua. Is it your — I'm not sure I'm phrasing the question properly here — but is it your view that your statement about consistent US policy covers, and the continuing to seek money for these activities that you just mentioned is consistent with that phrase, "paramilitary activity"?

Answer. Yes. Well, what I'm saying is — what I do not want to do here is argue the substance of the case which clearly may or may not be argued somewhere else. But the fact is, I just refer you to arguments that have been used, position that has been stated in terms of collective self-defense in the past, and I would just reiterate our statement that our activities and policy are not inconsistent with what the Court is asking.

Question: John, do you have any idea at all as to how long it will take before the Court decides the jurisdictional issue — any notion?

Answer: I do not have an idea, but we certainly intend to proceed with dispatch, and we think there is a clear obligation on the part of the Court to proceed very expeditiously.

Question: If the Court decides that it does have continued jurisdiction despite the US statement, you will then accept the further judgments of the Court on the substance of the issue?

Answer: Well, I think that statements we have made in the past tend to lead one in that direction, and I'm going to ask you to stand with the language that we have offered you today, namely that we certainly respect the Court and the rule of law, and we intend to act accordingly.

I cannot outline a scenario that would take place under every conceivable possibility, but I think that is the thrust of what we're saying.

Question: But your earlier statement last month was that you would not accept judgments by the Court in the area of Central America for the next two years.

Answer: Well, I don't think that's correct. I think what we were talking about was jurisdiction. That doesn't mean that we're not prepared to argue the case for jurisdiction and, hopefully, win it.

Question: John, how do you feel about the fact that the Court has come up with this interim finding before resolving the jurisdiction issue?

Answer: I guess we'll have to leave that for the international jurists to analyze and comment upon.

Question: John, would you say you're backing off your previous position on this?

Answer: Not at all.

Question: What difference does it make any more if you're saying you're going to act in accordance with the rule of law and that you respect the Court?

Answer: Uh-huh.

Question: Why bother to go ahead and argue the jurisdictional issue?

Answer: It's an important one.

Question: It's an important one because it deals not — in the way it deals not with Central America, but in the way it deals with future

Answer: Well, we're arguing it in this particular case, but it's an important one in general; but certainly, in this particular case it's important.

Question: John, when you announced this last month, you cited the example of other nations that have done similarly in the past. Do you have any information as to how those cases came out and whether the countries which did that accepted the Court's rulings?

Answer: I don't. I'm sure that's a matter of record, but I don't happen to have it with me.

Question: I'm sorry — one more time: Would it be possible to, when a reading is available and you have read the full text, to put up some guidance or have a briefing which would go over the four judgments that were accorded in the Court's summary today?

Answer: Carry that request to the appropriate folks, sure.

Question: Thank you.

Answer: I mean I don't know what the outcome will be.

. . . .

Question: John, can we have a copy of that World Court statement?

Answer: Sure.

Question: John, could I just go back to the World Court to make sure I understand this? Are you saying that if you lose the case for jurisdiction, and the Court comes up with a ruling that is unfavorable to the United States, still the United States is prepared to abide by that ruling?

Answer: Well, I'm saying once again that we respect the Court and the rule of law, and we intend to act accordingly; and certainly, everything in that statement tends to support the conclusion you're directing.

As I say, I cannot totally rule out or foresee every possible scenario, but I wouldn't quarrel with the deduction that you're making.

Question: What is the next step from now on, John, in terms of procedures? Is the Court

Answer: Tomorrow we talk to the Court about scheduling, and we move from there.

Question: Let's say the Court decides against the United States on this jurisdictional matter. Is there any appeal? Is it possible to appeal it? What is the procedure?

Answer: An appeal of that

Question: of that decision on jurisdiction?

Answer: I don't know. You've gone beyond my expertise.

Question: I just wanted to have an idea of how much time it is going to take.

Answer: As I say, we think the jurisdictional question should be disposed of rapidly.

. . . .

Question: The President, in his speech last night about Central America, repeated a theme which has been sort of central in somehow about the PLO involvement in Central America or Nicaragua, and they said it was last year in a paper put out by some organization here in the it had some association with the White House that the PLO is involved in training and other things in Nicaragua and Central America and other areas.

Can the State Department or this Government specifically put out a White Paper about the PLO involvement in Central America, to put to rest all of these charges, whether it's from the President or the State Department or other areas, to show that there is real involvement there. It concerns so many people in the Arab world to know if they are really involved or they just, you know, are hearsay or some charges which are not justified?

Answer: Okay.

Question: Can you look into this?

Answer: I don't know about a White Paper, but let us look and see whether there's anything that we might be able to

. . . .

Attachment II-7

May 25, 1984.

PRESS BRIEFING BY LARRY SPEAKES

Mr. Speakes' Office

[Not reproduced]

Attachment II-8

Friday, January 25, 1985

EXCERPTS FROM REMARKS BY VICE PRESIDENT GEORGE BUSH TO THE EXECUTIVE FORUM, WASHINGTON, DC

* * *

We did not come all this way to watch country after country fall to Marxist, totalitarian tyranny. We have promised to stand with the friends of freedom and democracy wherever they are, and particularly in this hemisphere. Ours must be the hemisphere of the human spirit, democracy's hemisphere. And that means our support for those in Nicaragua who are fighting the communist Sandinistas must go forward. The world is starting to understand that the Sandinistas have betrayed their own revolution, and that those called the *contras* are the true champions of freedom and democracy. We must not abandon the *contras* now.

* * *

Attachment II-9

PREPARED STATEMENT OF THE HONORABLE LANGHORNE A. MOTLEY, ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS, BEFORE THE WESTERN HEMISPHERE SUBCOMMITTEE OF THE COMMITTEE ON FOREIGN AFFAIRS, US HOUSE OF REPRESENTATIVES, JANUARY 29, 1985

* * *

1984 in Nicaragua confirmed different but equally important lessons from the Bipartisan Commission's report. The key lesson: that dictatorship, no matter the rhetoric, leads to repression, civil war and foreign entanglements. (That in 1984 Ortega had himself "elected" as Somoza had had himself "elected" in 1974 only underscores the point.)

But 1984 also confirmed another critical lesson: that the Sandinistas can change their ways if the pressure to do so is clear. Throughout 1983 and into 1984, a variety of pressures — military exercises, naval maneuvers, internal opposition (both armed and unarmed), falling international prestige — *did* produce some change, at least rhetorically, in Sandinista behavior. There were renewed promises of free elections and continued negotiations within the Contadora Process. But then something happened.

By the end of 1984, the Sandinistas were again acting as if they had no persuasive reason to compromise with their neighbors, with their own dissident political forces — or with the United States. It is reasonable to assume that the Sandinistas concluded both that their opponents internal support would not be matched externally and that they themselves could propagandize their way to "legitimacy" through a sham election. If those judgments hold, it would imply a US failure in terms of both friends and principles.

In the Contadora process, the nations of Central America have agreed that for any regional peace agreement to last, open political systems must be not just an ideal or a legal commitment, but a practical reality. They know that their future depends on working together and not allowing the pendulum to swing back — to the old order or not allowing outside powers to impose a new dictatorship in their midst.

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In Latin America and the Caribbean, I believe that the Administration and the Congress have reason to conclude that *the policies we have been following the last four years are succeeding* and that *the best option for the next four years is firm bipartisan continuity*.

The lessons from the recent past and the guidelines for the near future can be condensed into an assertion and a warning: *The skeptics were wrong about El Salvador, they were wrong about Grenada and they are wrong about Nicaragua — and all for the same reasons.*

There is one issue, however, on which considerable controversy still reigns: Nicaragua.

On that issue, as on others, we must be realistic. Realism means standing firmly on principles and with our friends. And it also means understanding how to go about it in the real world — where clear alternatives and easy choices are as rare as practicing democrats among the *comandantes*.

Both our commitments and our interests can best be served by the conclusion of a workable, comprehensive and fully verifiable regional agreement based solidly on the 21 Objectives the Contadora Process has set for itself. Our diplomacy must continue to support that outcome.

On behalf of the Contadora countries, Mexico suggested that we initiate direct talks with the Sandinistas. Secretary Shultz travelled to Managua last June to propose such talks, making clear publicly, and privately, to Daniel Ortega, that our purpose was to support and facilitate the Contadora Process. As a result of the Secretary's initiative, nine meetings have now been held between Special Envoy Shlaudeman and Nicaraguan Vice Minister Tinoco. These have been useful in permitting each side to present its concerns, but they have made no substantive progress. Next month a new and most important round of negotiations will begin in the Contadora Process. With that in view, and in order to avoid any impression that the Manzanillo talks could in any way replace or interfere with those critical multilateral negotiations, we decided to hold off on any further bilateral meetings with the Sandinistas pending the results of the next Contadora session.

There is nothing mysterious about diplomatic negotiations. Common-sense rules apply as much to the multilateral "Contadora" talks on Central America as, for example, to a labor-management dispute in the United States. But many have *not* applied common sense. When it comes to Central America, some take at face value things they would never accept at home.

First, in any negotiation, the *agenda has to have something in it for each side.* Otherwise, why negotiate? Fidel Castro, for example, often says "let's negotiate", but it always turns out that the only important item *he* wants on the *agenda* is the US economic boycott; anything *we* might want — as elimination of Cuban support for guerrillas — he rejects. In the first years of their rule, the Sandinistas obviously saw no advantage in "negotiating away" their support for Salvadoran and other guerrillas, or their military build-up and ties to the USSR and Cuba. They took *our* money but ignored attempts to discuss our concerns. But by 1983 they had an incentive. The strength of their internal democratic resistance, armed and unarmed, their neighbors' military exercises with the US, and their *own* plummeting international prestige gave the Sandinistas *something to bargain for.* That's when Contadora started rolling.

Second, *nobody bargains for something he expects to get free.* If the Nicaraguans in the armed resistance are abandoned, why should the Sandinistas negotiate with them? If the World Court makes decisions without considering the concerns of other Central Americans, why should Nicaragua compromise with its neighbors?

Third, *pressure outside of the formal negotiation is a normal part of the process.* What some call "coercive diplomacy" has been part of history since the first diplomats and the first soldiers. People and nations do not move to the negotiating table simply because it's a nice piece of furniture. If anyone knows of a more effective way to create a bargaining situation with the Sandinistas, let us know.

Fourth, *it takes at least two to negotiate.* If one side practices the theory that "what's mine is mine, what's yours is negotiable", then the parties might as well be a thousand miles apart rather than sitting around a green felt table — whether in Geneva, or Contadora or Manzanillo. An announcement by one party that one of several contending texts "must" be signed immediately without further conversation is a declaration of unwillingness to negotiate further.

Fifth, *balance must be maintained. If one side gets what it wants first, it will lose its incentive to compromise.* That's like a labor union agreeing to postpone consideration of pay rises without first trying to get them. Or the September 7 draft for a Contadora *acta*, which would have satisfied Nicaragua's basic demands but left issues fundamental to others for "future" discussion.

Sixth, *what negotiators say publicly is part of the negotiating process.* Nicaragua's statement that it was ready to sign the September 7 draft *acta* "as is" was a transparent ploy aimed at resisting the balancing changes sure to be insisted upon by the other participants. To see why, just carefully read the timetable and ground rules under which the draft *acta* was tabled.

Seventh, *an unenforceable, unverifiable agreement is worse than no agreement at all.* A mere announcement of "adherence" or a signature mean nothing without a means to ensure compliance. And if an agreement fails, a solution will become even more difficult.

Eighth: *What is important is the practical end result.* Not the fact of a ceremonial meeting or a frameable document, *not* self-satisfying statements to the press, but whether or not the "deal" really does bring results — whether higher wages for workers in the local plant or peace to Central America.

And, finally: *If pressure and negotiations fail and the problem continues* — as is possible, if not necessarily likely, in the case of Nicaragua's Sandinistas — *then the alternatives will surely be less desirable and far more expensive.* Let us be specific:

the Sandinistas have global ties and plans for Nicaragua and the rest of Central America that are contrary to US interests;

they will not modify or bargain away their position unless there is some incentive for them to do so;

the only incentive that has proved effective thus far has been opposition from other Nicaraguans (remember what happened after the 1980 emergency supplemental for Nicaraguan reconstruction?);

if pressure is taken away, the Sandinistas will have no reason to compromise;

if the Sandinistas have no reason to compromise, Contadora will surely fail; and

if Contadora fails, the long-run costs to the US in terms of money and lives will be much greater.

The perceived US relationship to the Nicaraguans who have taken up arms against those who cheated them of the goals of their revolution against Somoza has been controversial. However, the fact that the Nicaraguan armed resistance has been able to sustain, and in some respects even increase, its operations in recent months reflects its substantial indigenous as well as hemispheric support. Realistically, part of the debate over the future should focus on what Nicaragua would be like without pressure from the armed opposition, which short of changes in Sandinistas behavior, is the only internal obstacle to consolidation of an undemocratic regime at home providing military support to Marxist revolutions throughout Central America.

US policies must also consider the consequences of any failure to induce the Sandinista government to allow political pluralism. Contrary to their own pronouncements, the Sandinistas may be content to be left alone to build Marxism in one country. But the burden of proof should lie on those who proclaim that the Sandinistas are interested in doing their thing totally within Nicaragua. Neither the Cuban precedent nor the Sandinistas' behavior to date fit that proposition. And if a long-term policy of containment were to become necessary, both the US and its friends in Central America would pay the price, in resources dearly needed for other purposes.

Nicaragua's freedom fighters deserve the solidarity of the West no less — some would say more, because of the imperative of proximity — than the Afghan rebels or the Polish Solidarity movement. Shall we always wring our hands when a country suffers from Soviet or Marxist dictatorship but fail to help those who resist it?

The identity of the resistance fighters has been clouded by Sandinista propaganda denunciations of them as "murderers, marauders and rapists". They are said to be mercenaries and mostly former National Guardsmen who remain loyal to Somoza. In fact, all you have to do is count the numbers through; there are far more resistance fighters than there ever were members of the National Guard, even at its peak in Somoza's last days. The freedom fighters are peasants, farmers, shopkeepers and vendors. Their leaders are without exception men who opposed Somoza. And what unites them to each other and to the thousands of Nicaraguans who resist without arms is disillusionment with Sandinista abuse, corruption and fanaticism. The myth that if Somoza was bad, the Sandinistas have to be good was exploded long ago for most Nicaraguans.

Let us be clear: It is partly *because* our adversaries are intervening on behalf of totalitarianism in Central America that so many of our friends are involved in internal opposition to dictatorship. The Nicaraguan resistance was labelled "*contras*" by the people who wanted to deny them legitimacy. But the historical fact is that they are more "for" than "against": they are *for* democracy, *for* national independence and *for* the original promises of the anti-Somoza revolution. What they are *against* are the subverters of those ideals. The Nicaraguan democratic resistance clearly has a principled claim on our support. These are friends who merit our standing with them — and indeed can be frustrated if they are denied our help.

Attachment II-10

January 30, 1985.

LETTER OF THE SECRETARY OF STATE, WASHINGTON, TO THE PRESIDENT, INTER-AMERICAN DEVELOPMENT BANK

Dear Mr. President:

I write today to express my Government's strong concern over the possibility of early Executive Board consideration of a proposed $58 million agricultural credit loan for Nicaragua. I understand that the proposed loan would come from the Bank's ordinary capital resources and would be used to support expanded production of coffee, cotton, grain, sugar and other crops.

The United States opposes a renewal of lending to Nicaragua by the Inter-American Development Bank at this time for several reasons.

Nicaragua is not creditworthy. It is seriously in arrears to the international financial institutions. As of mid-January, Nicaraguan arrearages to the International Monetary Fund and World Bank were each in the $7 million range. The Nicaraguan Government has not been able to convince either institution that it has a strategy to eliminate these arrears. I understand that Nicaragua did bring its arrears with the IDB current in October of last year, but interpret this effort as merely a temporary expedient to allow it to become technically eligible for further Bank lending. According to the Office of the US Executive Director at the Bank, Nicaragua has since missed some repayments due, again entering into arrearages.

More broadly, the United States continues to be concerned over the focus and direction of Nicaragua's macroeconomic policies and questions whether that government can generate the economic growth and foreign exchange revenues needed to repay the proposed loan. Hence, approval of the loan could, over time, weaken the Bank's financial position and creditworthiness. As has been the case with other proposed loans by the international financial institutions to countries following what we consider seriously flawed economic policies, the United States would see little alternative to opposing actively this proposed loan to Nicaragua.

We are also concerned about the possible misuse by Nicaragua of the proceeds from such a loan. As you are aware, money is fungible; monies received from the Bank would relieve financial pressures on the GON and free up other monies that could be used to help consolidate the Marxist régime and finance Nicaragua's aggression against its neighbors, who are members in good standing of the Bank.

I believe that we must also consider carefully the reaction of the United States Congress and the American public should this proposed loan to Nicaragua be approved. We are all too well aware of the increasing difficulties involved in gaining Congressional appropriations for the international financial institutions, such as the Inter-American Development Bank. There is little doubt that Executive Board approval of the proposed agricultural credit loan for Nicaragua would make our efforts even more difficult. In a broader sense, our joint long-term goal of strengthening the Inter-American Development Bank and expanding its resource base would be undercut by Board approval of this proposed loan.

For the reasons noted above, I hope that the Bank's management will be able to defer the release of the documentation for this proposed loan to a more opportune time in the future.

Sincerely yours,

George P. Shultz.

The Honorable Antonio Ortiz Mena,
President,
Inter-American Development Bank,
Washington, DC.

Attachment II-11

PREPARED STATEMENT OF GENERAL PAUL F. GORMAN, USA COMMANDER IN CHIEF, US SOUTHERN COMMAND, TO THE SENATE ARMED SERVICES COMMITTEE, 27 FEBRUARY 1985

Concerning diplomacy, I am one soldier who strongly approves of efforts to find a negotiated settlement to the conflicts in Latin America. In any way I have been able, I have supported the work of Ambassadors Stone and Shlaudeman, and I have encouraged our allies in their search for a workable formula in the Contadora Process. I applaud our diplomats' insistence upon verifiable arrangements which provide equitably for all parties to the conflict, including the Nicaraguan freedom fighters. I am not unfamiliar with the difficulties our diplomats face, having spent two years in Paris engaged in negotiations with the North Vietnamese and the Viet Cong. I agree thoroughly with Ambassador Motley that the Nicaraguans do not come to the negotiating table because they admire it as a piece of furniture. There would be no dialogue, no negotiations with the Nicaraguans were it not for the freedom fighters, and were it not for the US military presence in Central America.

Somehow, the Sandinistas must be brought to a reckoning. When they came to power in 1979, their government included responsible men, moderate respectable leaders, who themselves believed that the Sandinistas would honor the commitments they made to the OAS for elections, genuine non-alignment, and respect for the sovereignty of their neighbors. These men included Arturo Cruz, Alfonso Robelo, Adolfo Calero and Alfredo Cesar. The presence of men like these among the Sandinista leadership convinced the United States to become the principal foreign supporter of the new government. Through mid-1981, we poured in more than $117 million in direct aid, making Nicaragua the highest per capita recipient of U.S. economic assistance during this period.

In August 1981, the United States undertook six months of diplomatic efforts to reverse the Sandinista course, telling the *Comandantes* that if they would cease their support for the Salvadoran guerrillas, we would both guarantee their security and co-operate with their economic development. Those negotiations came to naught. And by that time it was clear that the men we admired had been squeezed out of power, or had left in disgust, and that the remaining *Comandantes* were strongly committed both to Cubanization and to support of subversion in El Salvador, Honduras and Costa Rica. Thereafter, we have taken steps to shore up these threatened neighbors, and to provide serious incentives for the Sandinistas to reconsider.

The men I named — Cruz, Robelo, Calero and Cesar — became leaders of the freedom fighters. Today, there are 10,000 to 15,000 armed followers openly resisting the Sandinistas. Tragically, the Sandinista *Comandantes* have plunged recklessly onward toward the goals dictated by their doctrine. Under constant Cuban tutelage, they have:

> "Altered fundamentally the arms balance in the region, increasing their armed forces six-fold over a period of four years, fielding an armored brigade strike force of over 300 tanks and armored personnel carriers, 70 large artillery pieces, numerous multiple rocket launchers, anti-aircraft and anti-tank guns, and a profusion of motor transport. The recent addition of modern attack helicopters, the MI-24 HIND hunter-killer used by the Soviets against the Afghan freedom fighters, is of particular concern to all in the region. I have attached a detailed comparison of the military forces in Central America, a portrayal of growing, destabilizing imbalance.
>
> Trained pilots to fly high-performance fighters, and allowed Cubans and other foreigners to install intercept radars and to build air bases in Nicaragua — one of which, Punta Huete, will soon be capable of supporting both jet fighters and the heaviest transports in the Bloc inventory.
>
> Continued to support armed subversion against Costa Rica, Honduras and El Salvador, and have played host to numerous terrorist organizations from around the globe, providing an operating base for subversion throughout the Western Hemisphere.
>
> Imposed universal conscription and raised armed forces of over 119,000, keeping more than half on active duty. Recently the draft has been extended to men through age 30, and the *Comandantes* are talking about putting 100,000 men in the field to defeat 10,000 freedom fighters. The cynical cannon-fodder use of untrained Sandinista militia has already prompted violent protests among the citizenry in lowland towns, and prompted an unprecedented flood of Nicaraguan refugees into Honduras and Costa Rica.
>
> Ruined the Nicaraguan economy, becoming ever more dependent on Soviet dole, and trafficking in cocaine sales in the United States to generate hard currency."

Attachment II-12

EXCERPTS FROM REMARKS BY VICE PRESIDENT GEORGE BUSH, AUSTIN COUNCIL ON FOREIGN AFFAIRS, AUSTIN, TEXAS, THURSDAY, FEBRUARY 28, 1985

When I watch the debate over Nicaragua, I sometimes wonder if the opponents of aid to the freedom fighters have been listening to what the Communist rulers in Nicaragua themselves have been saying — because the Sandinistas are often quite open about their intentions and purposes, and often directly contradict the excuses made for them by misguided sympathizers in this and other countries.

For instance, some still insist that the Marxist-Leninists in Nicaragua pose no threat to their democratic neighbors. Yes, the Nicaraguan army is stronger and better equipped than all the other armies of Central America combined; but, say Nicaragua's defenders, these Marxists have no extraterritorial ambitions. But Tomas Borge, Nicaraguan Minister of the Interior, has stated from the beginning, "This revolution goes beyond our borders. Our revolution was always internationalist."

Or listen to Humberto Ortega, the Sandinista Defense Minister, who openly said, "Of course we are not ashamed to be helping [the guerillas in] El Salvador. We would like to help all revolutions."

Or Nicaragua's Foreign Minister, Miguel d'Escoto, who described how the Sandinistas view Central America: "You [the US] may look at us as five countries, six now with Panama, but we regard ourselves as six different States of a single nation, in the process of reunification."

Tomas Borge once described the final process of that reunification when he called Costa Rica "the desert". What he meant was that tiny Costa Rica, a long-standing stable democracy that keeps no army, would be completely vulnerable to armed aggression — a piece of cake, as it were. Nicaragua's ambassador to Costa Rica spelled it out more clearly. He said that the Costa Ricans, should they call on the OAS to help them in the event of an invasion, would not have time to convoke an OAS meeting, because "by that time they would have been occupied".

This is the voice of bullying and intimidation and blatant contempt for international law. It is the voice, often heard before in history, of tyrants bent on conquest. It is the very clear voice, for all who choose to listen, of the Nicaraguan Sandinista rulers.

The Sandinistas came to power promising to establish a democratic government chosen by free elections, and we believed their promises. And so, the United States gave the Nicaraguan revolutionaries unprecedented aid — $120 million from 1979 to 1981, plus support for $240 million more in funds from the Inter-American Development Bank. We gave more aid than any other nation. But even while we were giving aid, the hard-line Communists were already breaking their promises.

So, in Nicaragua we see that the Sandinistas have nearly extinguished freedom of the press. Independent labor unions have been harassed, their leaders beaten and arrested. Leaders of the business community were arrested simply because they issued a statement criticizing official policy. Following the Cuban model, the Sandinistas set up a network of informers and thought-police spying on families and communities. Already the Nicaraguan jails are filled with political prisoners, some 3,600 by the latest estimate.

But of course the biggest obstacle to the Sandinistas' complete domination is the church, which has been harassed mercilessly. In a country of deeply religious people, the government doesn't hesitate to have priests beaten, arrested and exiled. Holy Week services and the bishop's weekly homily have been censored. Government-inspired mobs even insulted and mocked the Holy Father when he visited that country. Protestant sects, including evangelicals, have been attacked, and the Sandinista military has burned over 50 churches.

Amazingly, we still hear the libel repeated that the Nicaraguan freedom fighters are made up largely of ex-followers of Somoza.

In fact, ex-members of Somoza's national guard account for only a tiny handful of the 15,000 armed resistance fighters. The entire political leadership of the freedom fighters — Alfonso Robelo, Aldolfo Colero of the FDN and Eden Pastora — were prominent political opponents of Somoza.

Both Robelo and Pastora, the famous Commander Zero, participated in the revolution and were members of the original revolutionary government. They only took up arms again when it became clear to them that the hard-line communists had seized all power and were, as Eden Pastora says, selling their country out to the Soviet Bloc.

Attachment III-1

NATIONAL SECURITY COUNCIL DOCUMENT ON POLICY IN CENTRAL AMERICA AND CUBA, *NEW YORK TIMES*, APRIL 7, 1983, P. A-16

[Not reproduced]

Attachment III-2

CIA WAR IN CENTRAL AMERICA, *COUNTERSPY*, SEPTEMBER-NOVEMBER 1983

[Not reproduced]

Attachment III-3

CIA INTERNAL REPORT DETAILS US ROLE IN *CONTRA* RAIDS IN NICARAGUA LAST YEAR, *WALL STREET JOURNAL*, MARCH 6, 1985

[Not reproduced]

Attachment III-4

STATEMENT OF UNITED STATES DEPARTMENT OF STATE, JANUARY 18, 1985, US WITHDRAWAL FROM THE PROCEEDINGS INITIATED BY NICARAGUA IN THE INTERNATIONAL COURT OF JUSTICE

The United States has consistently taken the position that the proceedings initiated by Nicaragua in the International Court of Justice are a misuse of the Court for political purposes and that the Court lacks jurisdiction and competence over such a case. The Court's decision of November 26, 1984, finding that it has jurisdiction, is contrary to law and fact. With great reluctance, the United States has decided not to participate in further proceedings in this case.

US Policy in Central America

United States policy in Central America has been to promote democracy, reform and freedom; to support economic development; to help provide a security shield against those — like Nicaragua, Cuba and the USSR — who seek to spread tyranny by force; and to support dialogue and negotiation both within and among the countries of the region. In providing a security shield, we have acted in the exercise of the inherent right of collective self-defense, enshrined in the United Nations Charter and the Rio Treaty. We have done so in defense of the vital national security interests of the United States and in support of the peace and security of the hemisphere.

Nicaragua's efforts to portray the conflict in Central America as a bilateral issue between itself and the United States cannot hide the obvious fact that the scope of the problem is far broader. In the security dimension, it involves a wide range of issues: Nicaragua's huge buildup of Soviet arms and Cuban advisers, its cross-border attacks and promotion of insurgency within various nations of the region, and the activities of indigenous opposition groups within Nicaragua. It is also clear that any effort to stop the fighting in the region would be fruitless unless it were part of a comprehensive approach to political settlement, regional security, economic reform and development and the spread of democracy and human rights.

The Role of the International Court of Justice

The conflict in Central America, therefore, is not a narrow legal dispute; it is an inherently political problem that is not appropriate for judicial resolution. The conflict will be solved only by political and diplomatic means — not through a judicial tribunal. The International Court of Justice was never intended to resolve issues of collective security and self-defense and is patently unsuited for such a role. Unlike domestic courts, the World Court has jurisdiction only to the extent that nation-States have consented to it. When the United States accepted the Court's compulsory jurisdiction in 1946, it certainly never conceived of such a role for the Court in such controversies. Nicaragua's suit against the United States — which includes an absurd demand for hundreds of millions of dollars in reparations — is a blatant misuse of the Court for political and propaganda purposes.

As one of the foremost supporters of the International Court of Justice, the United States is one of only 44 of 159 Member States of the United Nations that have accepted the Court's compulsory jurisdiction at all. Furthermore, the vast majority of these 44 States have attached to their acceptance reservations that substantially limit its scope. Along with the United Kingdom, the United States is one of only two permanent members of the United Nations Security Council that have accepted that jurisdiction. And of the 16 judges now claiming to sit in judgment on the United States in this case, 11 are from countries that do not accept the Court's compulsory jurisdiction.

Few if any other countries in the world would have appeared at all in a case such as this which they considered to be improperly brought. Nevertheless, out of its traditional respect for the rule of law, the United States has participated fully in the Court's proceedings thus far, to present its view that the Court does not have jurisdiction or competence in this case.

The Decision of November 26

On November 26, 1984, the Court decided — in spite of the overwhelming evidence before it — that it does have jurisdiction over Nicaragua's claims and that it will proceed to a full hearing on the merits of these claims.

This decision is erroneous as a matter of law and is based on a misreading and distortion of the evidence and precedent:

> The Court chose to ignore the irrefutable evidence that Nicaragua itself never accepted the Court's compulsory jurisdiction. Allowing Nicaragua to sue where it could not be sued was a violation of the Court's basic principle of reciprocity, which necessarily underlies our own consent to the Court's compulsory jurisdiction. On this pivotal issue in the November 26 decision — decided by a vote of 11-5 — dissenting judges called the Court's judgment "untenable" and "astonishing" and described the U.S. position as "beyond doubt". We agree.
>
> El Salvador sought to participate in the suit to argue that the Court was not the appropriate forum to address the Central American conflict. El Salvador declared that it was under armed attack by Nicaragua and, in exercise of its inherent right of self-defense, had requested assistance from the United States. The Court rejected El Salvador's application summarily — without giving reasons and without even granting El Salvador a hearing, in violation of El Salvador's right and in disregard of the Court's own rules.

The Court's decision is a marked departure from its past, cautious approach to jurisdictional questions. The haste with which the Court proceeded to a judgment on these issues — noted in several of the separate and dissenting opinions — only adds to the impression that the Court is determined to find in favor of Nicaragua in this case.

For these reasons, we are forced to conclude that our continued participation in this case could not be justified.

In addition, much of the evidence that would establish Nicaragua's aggression against its neighbors is of a highly sensitive intelligence character. We will not risk U.S. national security by presenting such sensitive material in public or before a Court that includes two judges from Warsaw Pact nations. This problem only confirms the reality that such issues are not suited for the International Court of Justice.

Longer-Term Implications of the Court's Decision

The Court's decision raises a basic issue of sovereignty. The right of a State to defend itself or to participate in collective self-defense against aggression is an inherent sovereign right that cannot be compromised by an inappropriate proceeding before the World Court.

We are profoundly concerned also about the long-term implications for the Court itself. The decision of November 26 represents an overreaching of the Court's limits, a departure from its tradition of judicial restraint, and a risky venture into treacherous political waters. We have seen in the United Nations, in the last decade or more, how international organizations have become more and more politicized against the interests of the Western democracies. It would be a tragedy if these trends were to infect the International Court of Justice. We hope this will not happen, because a politicized Court would mean the end of the Court as a serious, respected institution. Such a result would do grievous harm to the goal of the rule of law.

These implications compel us to clarify our 1946 acceptance of the Court's compulsory jurisdiction. Important premises on which our initial acceptance was based now appear to be in doubt in this type of case. We are therefore taking steps to clarify our acceptance of the Court's compulsory jurisdiction in order to make explicit what we have understood from the beginning, namely that cases of this nature are not proper for adjudication by the Court.

We will continue to support the International Court of Justice where it acts within its competence — as, for example, where specific disputes are brought before it by special agreement of the parties. One such example is the recent case between the United States and Canada before a special five-member Chamber of the Court to delimit the maritime boundary in the Gulf of Maine area. Nonetheless, because of our commitment to the rule of law, we must declare our firm conviction that the course on which the Court may now be embarked could do enormous harm to it as an institution and to the cause of international law.

Attachment III-5

April 10, 1985

U.S. SUPPORT FOR THE DEMOCRATIC RESISTANCE MOVEMENT IN NICARAGUA

Unclassified Excerpts from the President's Report to the Congress Pursuant to Section 8066 of the Continuing Resolution for FY-1985, PL 98-473

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I. US Goals in Central America

United States policy toward Nicaragua must be viewed in the overall Central American context, where we have a fundamental interest in the development and preservation of stable societies able to sustain social, economic and political change without coming under the sway of the Soviet Union or its allies. As the National Bipartisan Commission on Central America stated, "Central America is both vital and vulnerable and whatever other crises may arise to claim the nation's attention, the United States cannot afford to turn away from that threatened region". A hostile or destabilized Central America close to our border would pose an unacceptable threat to our vital interests in Mexico, the Panama Canal and the Caribbean sea lanes.

Because of the importance of Central America and the complexity of the problems there, US policy toward the region has centered on four interrelated objectives:

support for democracy, reform and human freedom in each country, including genuine national reconciliation, full respect for human rights and popular participation in the political process — as demonstrated by open, fair, genuine elections;

renewal of economic development and growth in the region to address the root socio-economic causes of turmoil and conflict and to provide increased opportunity and better conditions of life for all segments of society;

security for the democratic governments of Central America, to help shield them from guerrilla warfare or externally-supported subversion as they develop more equitable, humane and stable societies; and

support for a political solution to the conflicts in Central America, via peaceful dialogue within and among the countries of the region and for a comprehensive, and verifiable, regional settlement as outlined in the Contadora Document of Objectives.

These four objectives of the United States are consistent with the strongest ideals of the American nation and, we are convinced, reflect clearly the wishes of the vast majority of the people in Central America and throughout this hemisphere.

Progress has been made toward achieving these objectives in El Salvador and elsewhere in Central America. In Washington, the Administration and the Congress have demonstrated the broad consensus that now exists in the US on the need for increased aid to Central America by passing major economic and security assistance legislation for fiscal years 1984 and 1985. The Contadora Process, helped by our bilateral efforts at Manzanillo, has also made progress in some areas, despite major remaining obstacles. The basic problem of Central America remains unaltered: a dedicated Marxist-Leninist régime in Nicaragua, armed and backed forcefully by Cuba, the Soviet Union and its allies, bent on a massive weapons acquisition program and continuing active support for armed insurrection and subversion in neighboring countries, threatens the stability of democratic governments and fundamental US interests in Central America.

II. Nicaragua's Role in Central American Conflict

A. Sandinista objectives and strategy. Since the FSLN's rise to power in July 1979, real political power in Nicaragua has rested in the hands of the FSLN National Directorate. Composed of nine comandantes — three representatives from each of the three Sandinista factions — it determines and coordinates over Nicaraguan objectives and strategy. The judiciary and the national assembly are fully subservient to this executive authority.

While we know there are personal differences among the nine, as well as differences on tactics, all nine comandantes are Marxist-Leninist revolutionaries committed to radical social change and the export of revolution, disdainful of democratic-capitalist régimes, and distrustful of the United States.

Having suffered from discord in the past, the FSLN takes great care to present a common front, although it has used rumors of disagreement to play on foreign interest in supporting so-called "moderate" elements. In need of Western economic support, the FSLN attempts to hide the most glaring evidence of its Marxist and dictatorial tendencies. As a result and as an outgrowth of the "tercerista" strategy that succeeded against Somoza, it follows a flexible strategy under which the private sector is permitted to exist (albeit under systematic confiscation and increasing State restrictions), a political opposition can operate in limited areas (under the tight watch of FSLN and GON control instruments) and elections are carried out (under conditions assuring FSLN control of the outcome, via control of the media, political assembly and the basic necessities of life). It is a strategy dedicated to the long-term survival of the Sandinistas' grip on power and Marxist-Leninist ideal behind a façade of moderation.

Based on the experience of the past five years and on several key Sandinista policy statements not intended for publication (for example, the September 1979 "72 Hour Document" which set forth the goals of the revolution, and Comandante Bayardo Arce's May 1984 confidential speech to the Socialist Party — both of which have been acknowledged as authentic by Nicaraguan senior officials), the FSLN has the following overriding objectives:

- the political/economic transformation of Nicaraguan society along Marxist lines, marked by redistribution of income, confiscation of private property, and an expanded State role in the economy;
- the establishment and maintenance of complete Sandinista control within Nicaragua (demonstrated by the intimidation and restriction of the opposition; encouragement of factions challenging authentic opposition groups in labor, political parties, the press, human rights and organized religion; the development of Sandinista "mass organizations"; and the control of all government institutions by the FSLN);
- the development of closer ties with the Soviet Bloc and Cuba (shown by the GON's redirection of trade, its voting pattern in international bodies, its acceptance of 2,500-3,500 Cuban military and 3,500-4,000 Cuban civilian advisers, and its military purchases and identification with Cuban and Soviet Bloc goals in the region); and
- extensive material support for "fraternal revolution" in Central America (evidenced by its pattern of support for the Salvadoran guerrillas as well as similar groups in Guatemala, Honduras and Costa Rica).

It is clear from the historical record that the Sandinistas entered office with these basic objectives described above, which have not changed during their period of power.

B. Nicaraguan military buildup and alignment with the Soviet Bloc. As the Sandinistas took control of Managua on July 19, 1979, Somoza's National Guard disintegrated, leaving the Sandinista guerrillas as the only significant armed group in Nicaragua. With most of the Guard members captured or fleeing Nicaragua, there was little military threat to the FSLN within or without Nicaragua. Nevertheless, long before its opposition took up arms against it, the GON/FSLN had begun an impressive military buildup far beyond its defensive needs. The guerrilla army — which was renamed the Popular Sandinista Army (EPS) — grew from an estimated strength of 6,000 troops in July 1979 to about 16,625 by year's end, and to about 23,750 (army plus activated reserves and militia) by January 1982, when the armed opposition carried out its first major operations. In 1980 the GON announced a voluntary militia program, which Defense Minister Humberto Ortega boasted would eventually be 200,000 strong.

The Sandinista military establishment now has over 62,000 men on active duty and another 57,000 reserve and militia — a total of 119,000, many by now with combat experience. In contrast, Somoza's National Guard usually numbered 6,000 to 7,000 (and peaked at about 14,000 during the 1978-1979 insurrection). Of Nicaragua's immediate neighbors, Honduras' armed forces number about 18,000 and Costa Rica has no army.

The number of Cuban military and security advisors in Nicaragua grew in a similar pattern. About 200 Cuban military advisors were reported in Nicaragua in 1979, and an estimated 600 were present by the end of 1980. By the beginning of 1982, the estimate of Cuban military and security advisors in Nicaragua had risen to 1,500-2,000. In 1983 and 1984, the number of Soviet Bloc advisors increased, reaching about 2,500 to 3,500 Cuban military and security personnel and about 200 Soviet, other Bloc, Libyan, and PLO military advisors and technicians.

The growth of Soviet Bloc arms deliveries to Nicaragua lagged somewhat behind the increase in EPS troop strength and the Cuban presence, although orders were accepted as early as 1979. Soviet Bloc military deliveries totalled about $5 million in 1980, but rose to about $45 million in 1981, and to approximately $90 million during 1982.

In late 1979, East Germany agreed to supply Nicaragua with 800 military trucks (1,000 were eventually delivered). During 1980, Nicaragua also reportedly signed a secret defense agreement with Cuba. It also sent about 100 personnel for MiG pilot and mechanic training in Bulgaria, the first in a series of steps to acquire advanced fighter aircraft. In 1980 and 1981, the GON sent major missions to the Soviet Bloc to discuss military assistance. Following the August 1980 visit to Managua of Yasser Arafat, the PLO provided military instructors to the GON. In mid-1981, the GON received its first 25 Soviet T-55 medium battle tanks (it received about 25 more during 1982, and now has about 110 such tanks, along with about 30 PT-76 light amphibious assault tanks).

Following the onset of organized insurgent activity in Nicaragua in early 1982, the Sandinista military continued to grow in number of troops, quantity and quality of weapons, and in the overall level of Soviet Bloc assistance. Soviet Bloc military deliveries were about $115 million in 1983 and about $250 million in 1984. The cumulative amount from 1979 to the present reached over $500 million.

This weaponry was increasingly sophisticated. In addition to delivering more T-55 tanks, the Soviets introduced the PT-76 light amphibious tank, multiple rocket launchers, heavy artillery, helicopters (including the MI-24 Hind assault helicopter in late 1984), transport aircraft, about 200 armored vehicles, patrol boats and radar and air-defense equipment.

Considering that there was no significant armed opposition to the Sandinistas prior to 1982, the pattern of the 1979-1982 GON military growth and its Soviet connection illustrates that the Sandinista government was committed from its earliest days to a military system with the following facets:

- a large active force, with large ready reserve and militia;
- a close military relationship with Cuba and the Soviet Bloc, as well as Libya and the PLO; and
- new offensive weapons systems that would [...] the then-existing regional military [...] 1981 receipt of the T-55 tanks, and [...] to acquire advanced fighter aircraft [...].

C. Support for armed insurgency in El Salvador and other activities against other Central American Governments. Nicaragua's export of revolution to El Salvador, and to a lesser degree to the rest of Central America, remains an integral part of Sandinista ideology and foreign policy. Over the past 12-14 months, a compilation of reporting provides convincing evidence that Managua continues to play a key role — a supply and communications center, training base and headquarters for the Salvadoran guerrillas. There is enough specific evidence to be confident that the supply effort continues and remains a critical factor in maintaining the guerrillas' military capabilities.

While there has been a reduction in materiel support to the insurgency since mid-1984 compared to the sizeable influx during 1982-1983, Managua has an abiding commitment to maintain the insurgency in El Salvador.

In addition to intelligence evidence, Sandinista officials, such as directorate members Tomas Borge and Bayardo Arce, explicitly acknowledged at various times in 1984 Nicaraguan support to the guerrillas both in terms of materiel and communications.

Nicaragua also continues to provide military training to the Salvadoran guerrillas. A body of reporting over the past year suggests that a few hundred Salvadoran trainees may be at Nicaraguan camps at any given time. For example, a new training camp for Salvadorans was established last year near Santa Julia on Nicaragua's Cosiguina Peninsula. New buildings, a firing range and an obstacle course are hidden in wooded terrain. The isolated location and proximity to El Salvador make the site ideal for insurgent training and infiltration. Salvadoran trainees receive combat experience fighting the anti-Sandinistas prior to returning to El Salvador. The pattern of evidence is unmistakable. There is no reason to doubt that Nicaraguan support for the Salvadoran guerrillas, in equipment supply, training and in command and control operations continues to be a vital element in outside support for guerrilla activities.

Significance of Nicaraguan support to anti-government forces. External resupply and support assistance from Nicaragua will remain critical for the Salvadoran insurgents for the foreseeable future. A variety of reports over the past few months indicate that the guerrillas continue to depend heavily on Nicaragua:

- reporting from several sources confirm that the most critical need is for ammunition; and
- in early 1985, reporting indicated that the Salvadoran Army's increased effectiveness in small-unit tactics has resulted in "substantially fewer" arms captured by the guerrillas, forcing them to bring in more arms from abroad.

All evidence indicates that Managua will continue to provide sufficient materiel for the guerrillas to sustain at least their current level of activity.

Support for Other Central American Radicals. Sandinista activities elsewhere in the Central American region include training and arms support for radical groups, generally in close co-operation with Cuba. This support has been key to unity efforts and attempts to upgrade the military potential of these groups.

- *Guatemala.* Managua and Havana have worked jointly since 1982 to consolidate the principal rebel factions. During the past year, Managua has provided additional support to the Guatemalan guerrillas, which parallels early support for the Salvadoran rebels.
- *Honduras.* Prior to 1982, Havana and Managua discouraged armed struggle in Honduras so as not to endanger use of the country as a conduit for arms shipments to Salvadoran guerrillas. However, as the Honduran Government began to intercept arms shipments and disrupt leftist networks, the Cubans and Nicaraguans shifted their policy to more active subversion:
    - in mid-1983, the Sandinistas infiltrated approximately 100 Cuban-Nicaraguan-trained Honduran insurgents in an unsuccessful effort to set up a base for insurgent operations and made another abortive infiltration effort in mid-1984; and
    - reporting from a variety of sources indicates the training continues, both in Nicaragua and Cuba, and includes combat experience against anti-Sandinistas in northern Nicaragua.
- *Costa Rica.* Nicaragua provides arms and training to the armed wing of the Costa Rican Communist Party, which is seen by the hardline faction of the party as the backbone of able potential domestic insurgency.

D. Internal consolidation. The consolidation of Sandinista domestic power with a system of extensive internal control presents a major obstacle to Central American stability given Sandinista objectives and the lack of democratic checks and balances to prevent or moderate an aggressive policy supporting revolution in neighboring countries. Nearly six years after it seized power, the FSLN has total control of the vast GON apparatus and has largely consolidated its power.

Since taking power, the FSLN has moved quickly to confirm its control of key government functions, and to expand significantly the government's role in national life. It should be noted that although the FSLN has allowed some opposition role, mainly to project an image of moderation for external consumption, it has steadily restricted opposition activity. Its clear goal is the institutionalization of a Marxist-Leninist one-party State in Nicaragua. Following is a checklist of Sandinista actions taken so far to achieve political domination:

- the placing of FSLN cadre in all GON agencies and assigning key Ministries to National Directorate members;
- the creation of a repressive State security secret police organization controlled by the FSLN and assisted by Cuban and East German advisors;
- major expansion of the armed forces, controlled by Sandinistas and creation of the Sandinista militia (both a source of armed strength and mobilization of the masses);
- creation and expansion of Sandinista mass organizations, utilizing the literacy campaign and the various groups (labor, students and the ubiquitous CDS block committees) to build cadres, extend party control and to intimidate opposition groups;
- expansion of Sandinista representation in the Council of State, effectively reducing the opposition to a token role in that body;

- postponing elections five years until the FSLN had full political control and was able to ensure favorable results;
- active harassment of the political opposition through press censorship, denial of permits for rallies, arbitrary confiscation of property and arbitrary price and credit policies;
- support of rival, pro-Sandinista factions within all opposition parties, the media, organized religion, labor and non-partisan organizations; and
- extensive utilization of Soviet Bloc military and other cadre whose loyalty is toward consolidation of Marxist-Leninist system.

Blaming FDN activities in early 1982, the government declared a "state of emergency" that further curtailed civil liberties and restricted opposition activities. The FSLN also stepped up CDS block committee actions against political dissidents, including individuals, political parties, labor unions, the private sector, the media and organized religion. The institution of a draft, further expansion of the Nicaraguan military and increased receipt of major amounts of Soviet Bloc weaponry greatly increased the FSLN's capability to control national life and intimidate the opposition.

Having taken advantage of its access to GON funds and resources, and of the fact that opposition forces had been weakened by years of repression under Somoza and then the Sandinistas, the FSLN announced elections for November 1984. The flawed electoral process — during which the FSLN rejected opposition requirements for minimal guarantees to allow fair participation — demonstrated that the FSLN was not prepared to risk its own political power. From the FSLN's standpoint, however, the elections gave it a basis to institutionalize its control over Nicaraguan society.

Events following the elections indicate the FSLN will use its control of the Presidency and the new National Assembly to provide the institutional framework for continued Sandinista domination. This current phase of FSLN consolidation includes continuation of political and media controls, aggressive use of the draft as a device for mobilization and social control, rejection of armed and unarmed opposition calls for church-sponsored dialogues and proposal of a National Assembly statute that would severely limit rights of most opposition members.

The unfair electoral arrangements and subsequent efforts to stifle political opposition in Nicaragua were taken after the Sandinistas had announced on September 20, 1984, their willingness to accept the draft Contadora treaty which contained extensive commitments to respect political rights and ensure a democratic political system.

Sandinista Rejection of Dialogue. The Nicaraguan armed and unarmed opposition have consistently emphasized the goal of genuine democracy in Nicaragua, and have repeatedly offered to engage in dialogue with the Sandinistas. Significant armed opposition proposals were made by the Revolutionary Democratic Alliance (ARDE) on February 18, 1984, and by the Nicaraguan Democratic Force (FDN) on February 21, 1984. The unarmed opposition put forth a nine-point proposal in January 1984, and refined this proposal in September 1984 to address the conditions necessary for opposition participation in the November elections. More recently, the unarmed opposition leadership in Managua issued a February 22, 1985, proposal for a national dialogue.

In a separate declaration signed in San José on March 1 — a major opposition milestone that received wide attention — the externally-based opposition (including representatives of the FDN, the Miskito group MISURA, ARDE and prominent democratic civilian leaders such as Arturo Cruz) proposed a national dialogue to be mediated by the Nicaraguan Catholic church, offering to implement a mutual *in situ* ceasefire and accept Daniel Ortega as President until such time as the Nicaraguan people decided on the matter through a plebiscite. They also endorsed the minimum requirements established on February 22 by the internal unarmed opposition to begin a national dialogue. In addition to the suspension of armed activities and the establishment of a ceasefire, these included the lifting of the state of emergency; absolute freedom of expression; a general amnesty and pardon for political crimes; a full restoration of constitutional guarantees and the right of habeas corpus; guarantees of the safety of members of the resistance movement who participate in the dialogue; and the implementation of these measures under the supervision of guarantor governments. The foregoing are not unreasonable demands of abdication, but rather the minimum rights of people in a democratic society.

When Arturo Cruz attempted to fly to Managua on March 7 to deliver this proposal to the Nicaraguan government, the government prevented his return, and refused to respond to either opposition proposal. On March 22, the Nicaraguan Catholic church hierarchy (Episcopal Conference) issued a communique reiterating its support for a national dialogue and declaring its willingness to act as a mediator.

III. Efforts to Resolve Central American Conflict

A. US objectives toward Nicaragua. United States policy toward Nicaragua since the Sandinistas' ascent to power has consistently sought to achieve changes in Nicaraguan government policy and behavior. We have not sought to overthrow the Nicaraguan government nor to force on Nicaragua a specific system of government. The changes we seek, listed below, are essential if Central America is to achieve peace and stability:

- termination of all forms of Nicaraguan support for insurgencies or subversion in neighboring countries;
- reduction of Nicaragua's expanded military/security apparatus to restore military balance in the region;
- severance of Nicaragua's military and security ties to the Soviet Bloc and Cuba and the return to those countries of their military and security advisors now in Nicaragua; and
- implementation of Sandinista commitment to the Organization of American States to political pluralism, human rights, free elections, non-alignment and a mixed economy.

These goals are supported by all of Nicaragua's neighbors, they are consistent with the original goals of the anti-Somoza coalition and Sandinista pledges to the OAS, and they are contained in the September 1983 Contadora Document of Objectives, which Nicaragua signed together with the other Central American States. The last of the above objectives has been stressed by both the Carter and Reagan Administrations. It is directly related to both the internal situation in Nicaragua and Nicaragua's relations with its neighbors, especially unarmed, neutral and democratic Costa Rica, which sees the realization of this objective as a guarantee of its own security.

B. Bilateral and regional diplomacy, 1979-1982. United States negotiations with the Sandinistas began before they arrived in power July 19, 1979. Our efforts to strengthen the moderate opposition to Somoza succeeded in obtaining from the Sandinistas their July 12, 1979, letter to the OAS and their Basic Statute, in which they made the commitments to democracy, human rights and non-alignment cited above.

During 1979 and 1980, the Carter Administration made a major effort to achieve good relations with the Nicaraguan government. Total authorized bilateral assistance reached $117.2 million, and the U.S. strongly supported Nicaragua in multilateral aid institutions. Our central objective was to encourage evolution of a democratic system in Nicaragua. Diplomatic contacts were frequent and at a high level, including Secretary Vance in Quito in August 1979, a Carter-Ortega meeting in September 1979, a U.S. visit by Comandantes Wheelock and Tirado in December 1979, Assistant Secretary Bowdler's visit to Managua in January 1980, and ARA Deputy Assistant Secretary Cheek's visit in September 1980. As late as October 1980, still seeking constructive relations, the Carter Administration certified that Nicaragua was not assisting international terrorism.

But by December 1980, the intelligence revealed that the Sandinistas were supporting the Salvadoran guerrillas, that 600 Cuban military advisors were in Nicaragua and that pilots had been sent abroad for MiG training. The military buildup had begun and internal repression was apparent in the stacking of the Council of State in May and the murder of private sector leader Jorge Salazar in November. Disbursements of AID and PL-480 sales were suspended and military assistance to El Salvador resumed. Economic assistance was formally ended by a Presidential Determination April 14, 1981, that Nicaragua was assisting Salvadoran guerrillas.

This Administration, nevertheless, made two major attempts to reverse the deteriorating relations in 1981-1982. Assistant Secretary Enders visited Managua in August 1981, and presented an offer, including renewed economic assistance, for an end to Sandinista support for guerrillas and reduced levels of Nicaragua's military capability and foreign advisors. The GON never responded to our offer. Nicaraguan Ambassador to the U.S. Arturo Cruz resigned shortly thereafter in frustration over these developments. In April 1982, we made an eight-point proposal reiterating the August terms and emphasizing international verification of arms limitations and reaffirmation of Nicaragua's earlier commitments to support pluralism, free elections and a mixed economy. A series of exchanges became increasingly sterile and concluded in August 1982. We then joined a multilateral effort of eight democracies of the region in October 1982 — the San José Declaration — which outlined the essential conditions for restoring peace. These governments designated Costa Rican Foreign Minister Volio to carry the declaration to Managua. The Nicaraguan government, however, refused to receive him or enter into dialogue on the San José principles.

C. Contadora and Manzanillo, 1983-1985. Colombia, Panama, Mexico and Venezuela began in January 1983, at Contadora, Panama, to mediate a regional settlement. Meetings among the five Central American and these four "Contadora Group" governments led to agreement in September 1983 on a Document of Objectives. This identified 21 political, security and social-economic goals whose verifiable implementation would meet our concerns. We have consistently supported efforts to develop the Document of Objectives into a comprehensive and verifiable agreement.

By April 1984, the Contadora Group had developed recommendations for implementing the Document of Objectives and proposed a draft agreement in June 1984. This first draft was accepted as a basis for further discussions by the Central American States. The Sandinistas made it clear that they would not accept any element to which they had not previously agreed. The other Central Americans made suggestions for its improvement and called for direct negotiations with Nicaragua.

The Contadora group presented a second draft on September 7. Nicaragua's insistence on prohibition of military maneuvers was accepted; timing of security commitments of interest to Nicaragua was tied to signature; but commitments on foreign advisors and arms reductions were left for later negotiation. Verification was extremely weak.

Nicaragua conditionally accepted the draft on September [. . .] other Central Americans, however, had strong misgivings. Honduras, El Salvador and Costa Rica developed a series of proposed amendments that were presented to the Contadora Group on October 20, 1984. Informal discussions within Contadora since last fall have focused on reconciling these two drafts of a "final agreement". When the Contadora Process resumes April 11-12, these drafts — and efforts to strengthen verification — will be the focus of discussion.

Manzanillo discussions. During a June 1, 1984, visit to Managua, Secretary Shultz proposed direct discussions between Nicaragua and the U.S. We made clear from the outset that this process was designed to facilitate the Contadora negotiations and contribute to the goal of a comprehensive, regional settlement.

U.S. Special Envoy Ambassador Harry Shlaudeman held nine meetings with the Nicaraguans between June and December 1984, all but one in Manzanillo, Mexico. We made specific proposals for a comprehensive step-by-step solution to the problems identified by both sides. But Nicaragua used the talks as a vehicle to try to resolve its most immediate bilateral security concerns without addressing such Contadora objectives as regional arms reductions, or reincorporation of its insurgents into civil society under democratic conditions. Following Nicaragua's conditioned acceptance of the September 7 Contadora draft agreement, the United States attempted to initiate concrete discussions on the points still at issue in the draft. The Nicaraguan delegation was unwilling to consider this approach, seeking instead to "explore" security issues only outside the Contadora context.

Nicaraguan diplomacy throughout the six years of Sandinista rule has thus been characterized by an effort to bilateralize negotiations, making a comprehensive settlement impossible. It has at the same time engaged in grandstand diplomacy by making public statements inconsistent with its real negotiating position and by appeals to the U.S. public and to various international fora in search of propaganda advantage.

In sum, it is apparent that the Sandinistas use the negotiating process to advance their more serious objectives:

- buy time for internal consolidation;
- ease external political, economic and military pressures by presenting the appearance of reasonableness and flexibility; and
- obtain explicit or implicit guarantees against U.S. unilateral military intervention and preclude neighboring countries from supporting Nicaraguan democratic opposition.

By the same token, it is clear that, despite lip service to the democratization aspects of Contadora, the Sandinistas are unalterably opposed to any internal changes that would jeopardize their control of political life in Nicaragua.

IV. Policy Alternative and U.S. National Interests

The foregoing sets forth in detail our objectives regarding Nicaragua and the enormous obstacles to realizing them posed by Sandinista ideology, geo-strategic aims and intransigence. We have considered the possible alternative approaches to achieving our policy objectives for regional stability. In doing so, we have ruled out courses of action that would amount to acceptance of Sandinista goals and abandonment of our own objectives, and direct application of US military force.

We are left with reliance upon an array of policy instruments, short of direct US military action, to advance our objectives and deny the attainment of those of the Sandinistas and their communist mentors. In the broadest terms, we have two options:

> first, we can seek through effective pressure to modify Sandinista behavior while we help strengthen the political, economic and military capabilities of the countries directly threatened; or
> second, we can forego pressure and concentrate on seeking to contain the effects of Sandinista behavior through assistance to neighboring countries.

The second of these options, containment, would seek to counter the expansionist activities of the Soviet Union, Cuba and Nicaragua in Central America by, *inter alia*, a major buildup of the security capabilities of the countries directly threatened.

It would mean providing Honduras advanced combat aircraft, anti-tank and anti-air defense systems and underwriting a military force increase from about 18,000 to perhaps 35,000. In the case of El Salvador, it would mean more resources and major drives to slow the guerrillas before the Sandinista pipeline picks up again. Costa Rica would have to decide whether to develop new security capabilities (it now has no army) and host US exercises or other measures.

To assure that these countries would have the will to resist an environment of increasing Nicaraguan military dominance, the US would probably have to offer firm guarantees for resisting Nicaraguan attack, including Nicaraguan aggression through unconventional warfare.

US military and naval exercises probably would increase. The intelligence services of each country would have to be expanded. Additional economic assistance (a doubling of 1984/1985 levels or more) would be needed to offset the impact of Soviet/Cuban subversion and political action. We have not attempted to cost-out this option, but total assistance to the area could rise from the $1.2 billion per annum level of FY 84/85 to $4-5 billion per year for the immediate future.

In terms of full realization of our objectives toward Nicaragua, the containment approach is obviously deficient in that it is passive and does not contemplate changes in Sandinista behavior. We do not see such changes occurring under this scenario even if the steps outlined above are coupled with economic sanctions and other measures to isolate Nicaragua. Moreover, there are fundamental obstacles to implementing this strategy in a way that will achieve its defensive goals. First is the question of whether Congress would support the long-term increases in US material assistance that would be necessary. A half-hearted "containment" response, or one that lasted for only a year or two would only serve to prolong the Central American conflict without altering its ultimate outcome. Second, we must face the fact that definitive removal of US support from the anti-Sandinistas will have, in its own right and apart from any compensatory measures, a demoralizing effect on our friends in the region. This, in turn, will tend to make them more susceptible to Sandinista intimidation and/or negotiation initiatives, and less confident in future security relationships with us.

The flaws in the containment approach, especially measured against the long-term commitment of the Sandinistas and the assurances of political and military support they enjoy from the Soviet Bloc, would appear to dictate eventual success of Sandinista-inspired insurgency throughout the region.

Our conclusion is that continuation of strong pressure on the Sandinistas is the only effective course of action that will safeguard our security and those of our friends. Under this strategy, we foresee the following:

resumption of aid to the Nicaraguan armed resistance at levels sufficient to create real pressure on the government of Nicaragua;

US economic and security assistance to other countries of Central America;

continued US insistence on strengthening democratic institutions, respect for human rights and reforms;

additional military and naval exercises; and

active encouragement of a negotiated political solution to regional problems based on our four objectives and the 21-point Contadora Document of Objectives.

The justification for our proposed approach — the strategy of strong pressures combined with a negotiating channel to encourage a political solution — is treated in Section V below, in terms of specific objectives such as halting Nicaraguan support for the Salvadoran guerrillas and encouraging the removal of Cuban and Soviet advisors. Of the various approaches, this has the highest chance of achieving a negotiated solution. It requires far less US resources than a containment policy and a better chance of being effective. The resources are now in place but should the armed opposition be dismantled or break apart, it could not be put back together again without enormous effort, if at all. In effect, this option would be lost — placing us in an "accommodationist-or-military response" dilemma at some later date, when the threat to US interests becomes more obvious and when the only effective response would be on a larger scale, or in less favorable circumstances.

V. Presidential Determination

A. Description of proposed program. Assistance provided to the Nicaraguan democratic opposition forces will be structured so as to increase their size and effectiveness to the point where their pressure convinces the Sandinista leadership that it has no alternative to pursuing a course of moderation, to include:

cessation of support to insurgent movements in other countries;

reduction in their armed forces;

withdrawal of foreign advisors; and

acceptance of the March 1 Peace Proposal and establishment of a legitimately pluralistic democratic political structure which will assure that Nicaragua will not continue activities threatening to their neighbors.

[B. Justification:] The United States has a clear, undeniable moral imperative not to abandon those brave men and women in their fight to establish democracy and respect for human rights in Nicaragua. It is a traditional imperative stemming from more than 200 years during which, time and again, we have lent our support — moral and otherwise — to those around the world struggling for freedom and independence.

It is not simply a matter of the $14 million before the Congress that is the issue. The greater issue is one of the United States trying to help people who have had a communist tyranny imposed on them by force, deception and fraud. We cannot consign the Nicaraguan people to a communist dictatorship with no possibility — if history is any guide — of realizing the freedoms of democratic goals set forth in their San José unity declaration. Our responsibility is clear: we must give them our full bipartisan support.

Annex D

United States Statutes

Attachments

1. War Powers Resolution, Title 50, US Code, Sections 1541-1548.
2. Statutes relating to Congressional Oversight of Intelligence Activities, Title 22, US Code, Section 2422 and Title 50, US Code, Section 413.
3. Department of Defense Appropriations Act, 1984, Public Law 98-212, December 8, 1983 (Section 775).
4. Intelligence Authorization Act for Fiscal Year 1984, Public Law 89-215, December 9, 1983 (Section 108).
5. Continuing Appropriations, 1985, Public Law 98-473 [H.J.Res. 648], October 12, 1984 (Section 8066).
6. Department of Defense Authorization Act, 1985, Public Law 98-525, October 19, 1984 (Section 1540).

Attachment 1

WAR POWERS RESOLUTION, TITLE 50, US CODE, SECTIONS 1541-1548

[Not reproduced]

Attachment 2

STATUTES RELATING TO CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES, TITLE 22, US CODE, SECTION 2422 AND TITLE 50, US CODE, SECTION 413

[Not reproduced]

Attachment 3

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1984, PUBLIC LAW 98-212, DECEMBER 8, 1983 (SECTION 775)

Sec. 775. During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

Attachment 4

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1984, PUBLIC LAW 89-215, DECEMBER 9, 1983 (SECTION 108)

LIMITATION ON COVERT ASSISTANCE FOR MILITARY OPERATIONS IN NICARAGUA

Sec. 108. During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

Attachment 5

CONTINUING APPROPRIATIONS, 1985, PUBLIC LAW 98-473 [H.J.RES. 648] OCTOBER 19, 1984 (SECTION 1540)

Sec. 8066. (*a*) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

(*b*) The prohibition concerning Nicaragua contained in subsection (*a*) shall cease to apply if, after February 28, 1985—

(1) the President submits to Congress a report—

(A) stating that the Government of Nicaragua is providing materiel or monetary support to anti-government forces engaged in military or paramilitary operations in El Salvador or other Central American countries;

(B) analyzing the military significance of such support;

(C) stating that the President has determined that assistance for military or paramilitary operations prohibited by subsection (*a*) is necessary;

(D) justifying the amount and type of such assistance and describing its objectives; and

(E) explaining the goals of United States policy for the Central American region and how the proposed assistance would further such goals, including the achievement of peace and security in Central America through a comprehensive, verifiable and enforceable agreement based upon the Contadora Document of Objectives; and

(2) a joint resolution approving assistance for military or paramilitary operations in Nicaragua is enacted.

(*c*) (1) For the purpose of subsection (*b*) (2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (*b*) (1) is received by Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the obligation and expenditure of funds available for fiscal year 1985 for supporting, directly or indirectly, military or paramilitary operations in Nicaragua."

Attachment 6

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985, PUBLIC LAW 98-525, OCTOBER 19, 1984 (SECTION 1540)

AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO COUNTRIES IN CENTRAL AMERICA

Sec. 1540. (*a*) Notwithstanding any other provision of law, during fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge, to any country in Central America goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(*b*) (1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that

> (A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;
>
> (B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;
>
> (C) there is a legitimate humanitarian need for such goods and supplies;
>
> (D) the goods and supplies will in fact be used for humanitarian purposes; and
>
> (E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(*c*) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods and supplies.

(*d*) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

(*e*) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destinations and disposition of all goods and supplies transported under this section.

Annex F

UNITED STATES CONGRESSIONAL REPORTS, DEBATES AND OTHER STATEMENTS BY MEMBERS OF CONGRESS RELATING TO US MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA

Attachments

1. Report of the US House of Representatives Permanent Select Committee on Intelligence, 98th Congress, 1st Session, Rept. No. 98-122, Part 1 (May 13, 1983).
2. Letter from US Senator Barry Goldwater, Chairman, Senate Select Committee on Intelligence, to Mr. Gilbert Gude, Director, Congressional Research Service, The Library of Congress, June 27, 1983 (with attachment).
3. Debate in the US House of Representatives, 98th Congress, 1st Session, July 27, 1983 (129 *Congressional Record* H5720-5762).
4. Debate in the US House of Representatives, 98th Congress, 1st Session, July 28, 1983 (129 *Congressional Record* H5819-5882).
5. Debate in the US House of Representatives, 98th Congress, 1st Session, October 20, 1983 (129 *Congressional Record* H8389-8433).
6. Debate in the US Senate, 98th Congress, 2nd Session, April 4, 1984 (130 *Congressional Record* S3742-3796).
7. Debate in the US Senate, 98th Congress, 2nd Session, April 5, 1984 (130 *Congressional Record* S3848-3898).
8. Debate in the US Senate, 98th Congress, 2nd Session, April 10, 1984 (130 *Congressional Record* S4192-4205).
9. Letter from US Senator Barry Goldwater, Chairman, Senate Select Committee on Intelligence, to US Director of Central Intelligence William J. Casey, April 9, 1984, as reprinted in the *Washington Post*, April 11, 1984.
10. Debate in the US House of Representatives, 98th Congress, 2nd Session, April 12, 1984 (130 *Congressional Record* H2878-2940).
11. Statement by US Senator Daniel Patrick Moynihan, Vice-Chairman, Senate Select Committee on Intelligence, April 15, 1984.
12. Debate in the US House of Representatives, 98th Congress, 2nd Session, May 24, 1984 (130 *Congressional Record* H4796-4806).
13. Debate in the US Senate, 98th Congress, 2nd Session, June 18, 1984 (130 *Congressional Record* S7499-7517).
14. Debate in the US House of Representatives, 98th Congress, 2nd Session, August 2, 1984 (130 *Congressional Record* H8264-8284).
15. Debate in the US Senate, 98th Congress, 2nd Session, October 3, 1984 (130 *Congressional Record* S12857-12879).
16. Transcript of remarks of Senator Daniel Patrick Moynihan, Vice Chairman, Senate Select Committee on Intelligence, on ABC News "This Week With David Brinkley", October 28, 1984.
17. Report of the US House of Representatives Permanent Select Committee on Intelligence, 98th Congress, 2nd Session, Rept. No. 98-1196 (January 2, 1985).

Attachment I

REPORT OF THE US HOUSE OF REPRESENTATIVES PERMANENT SELECT COMMITTEE ON INTELLIGENCE, 98TH CONGRESS, 1ST SESSION, REPT. NO. 98-122, PART 1 (MAY 13, 1983)

AMENDMENT TO THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BOLAND, from the Permanent Select Committee on Intelligence, submitted the following report together with additional, minority, and additional dissenting views

The Permanent Select Committee on Intelligence, to whom was referred the bill (HR 2760) to amend the Intelligence Authorization Act for Fiscal Year 1983 to prohibit United States support for military or paramilitary operations in Nicaragua and to authorize assistance, to be openly provided to governments of countries in Central America, to interdict the supply of military equipment from Nicaragua and Cuba to individuals, groups, organizations, or movements seeking to overthrow governments of countries in Central America, having considered the same, report favorably thereon and recommend the bill do pass with amendments.

Amendments

The amendments adopted by the Committee are as follows:

On page 2, line 15, strike "or against".
On page 2, line 17, after "(*b*)", strike everything through line 18 and insert in lieu thereof the following:

"This section shall take effect upon the date prescribed in the classified annex to the Committee report accompanying this bill."
On page 3, line 14, after "ragua", insert the following: "or any other country or agents of that country."
On page 3, line 21, after "a", insert "friendly".

Overview

The Committee's action on HR 2760 comes at a time when US foreign policy towards Central America is at the forefront of discussion in the Congress and throughout the nation. Attention has been focused on events in that troubled region not only because of their daily depiction in news reports but because of the President's April 27 address to a joint session of the Congress. As the President so forcefully noted, Central America has a strategic importance to the United States, yet some Central America nations friendly to the United States are now under attack. The danger of a broader regional conflict looms.

The focal point of United States effort in Central America is of course El Salvador. There a strong insurgent coalition threatens the elected Government supported by the United States. El Salvador's many troubles have their root cause in the serious economic, social and political shortcomings of the long-entrenched Salvadoran social order. US aid to El Salvador is weighted towards helping to restructure Salvadoran economic, social and political models, but it is a sad fact that such reforms are impractical in a climate of unrest and denial of basic services. Both are caused by the activities of Salvadoran insurgents who, unwilling to limit their attacks to military targets, have launched successful and very damaging attacks on the power, water and transportation infrastructure of El Salvador.

The success of the insurgents in El Salvador has not been matched by political victories. It is not popular support that sustains the insurgents. As will be discussed later, this insurgency depends for its life-blood — arms, ammunition, financing, logistics and command-and-control facilities — upon outside assistance from Nicaragua and Cuba. This Nicaraguan-Cuban contribution to the Salvadoran insurgency is longstanding. It began shortly after the overthrow of Somoza in July 1979. It has provided — by land, sea and air — the great bulk of the military equipment and support received by the insurgents.

No U.S. security assistance to El Salvador can ignore this chain of support. However, neither El Salvador nor its close neighbors possesses the capability to interdict arms supplies reaching the insurgents. These nations have neither the financial resources, the knowhow, nor the trained personnel to conduct effective interdiction activities in their own territory.

U.S. policy has not been directed at providing these nations with the necessary interdiction capability. Rather encouragement and support has been provided to Nicaraguan exiles to foster insurgency within Nicaragua. The end purpose of this support has been stated to be the interdiction of arms flowing through Nicaragua into El Salvador. It has also been explained as an attempt to force the Sandinista regime in Nicaragua to "turn inward" — away from its support of the Salvadoran insurgency. Later, other goals — "bringing the Sandinistas to the bargaining table" and forcing the scheduling of "promised elections" were added as ends to be achieved.

Those ends have not been achieved. Rather, entirely opposite results have been produced. Sandinista commitment to the Salvadoran insurgents has strengthened. The Salvadoran insurgents themselves have become more, not less, militarily active and may have increased in number. Their activities are well supplied and often well coordinated. More ominous is that the Sandinistas have stepped up their support for insurgents in Honduras.

In Nicaragua itself, as military clashes between insurgents and government forces have increased, even domestic opponents of the Sandinistas have come to support the government in the face of a U.S. sponsored threat. The Nicaraguan government has declared a state of siege and assumed martial law powers. This situation only promises to continue. The prospect for real elections seems dim.

Throughout these developments, U.S. diplomacy has been unable to find a formula for discussing with Nicaragua the problem of its attempts to export revolution. First bilateral and now multilateral approaches have failed to bring the Sandinistas to point of even admitting its arms trafficking activities. Those negotiations which offer some present prospect of hope for either bilateral or multilateral talks emphasize strongly the unproductive and indeed counterproductive nature of outside sponsored insurgencies on the peace process. An observation that seems called for is that if Nicaraguan-Cuban-sponsored insurgents will not force the Salvadoran Government to negotiate with the insurgents, the same will be true in the case of a U.S.-sponsored insurgency and the Nicaraguan government.

The fact of U.S. support for the anti-Sandinista insurgents has had further unfortunate repercussions. Having twice sent U.S. troops to Nicaragua in this century, this country has once again been cast in the role of interventionist. The

United States has allied itself with insurgents who carry the taint of the last Nicaraguan dictator, Somoza. It has, in effect, allowed the spotlight of international opprobrium to shift from Sandinista attempts to subvert a neighboring government to a U.S. attempt to subvert that of Nicaragua. If ever there was a formula for U.S. policy failure in Central America, it would involve two elements: (1) acts that could be characterized as U.S. interventionism in Nicaragua; and (2) an alliance with the followers of Somoza. Both characterizations can now be made. The isolation within the international community that Nicaragua should feel has been diminished by this doubly insensitive involvement by the U.S. in Nicaraguan affairs.

As it watched the development of the Nicaraguan insurgency and as members of the Committee concluded that U.S. policy was employing the wrong means to achieve its objectives, the Committee sought alternative solutions to achieve the same ends. It attempted restraints on the range of activities supported by the U.S. Two attempts of this kind were the language of the fiscal year 1983 Intelligence Authorization Act which sought to limit insurgent activity to arms interdiction, and the Boland Amendment, an amendment to the fiscal year 1983 Defense Appropriations Act that prohibited assistance for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

Both proved ineffective as moderate curbs on insurgent activity or U.S. policy. Hostilities within Nicaragua intensified. There was no discernable effect on the arms flow. Throughout, executive branch officials made little effort to mask U.S. support, going so far in April, 1983, as to encourage media discussion.

Faced with these circumstances, the Committee met several times in April 1983 to consider alternatives. What emerged from these discussions was a strong consensus on U.S. security interests in Central America and agreement on U.S. goals for the region fully consistent with those later enunciated by the President in his April 27 address. The Committee supplemented its discussions by hearing from Secretary of State Shultz and CIA Director Casey. Some members met with the President.

Following the President's address, the Committee amended and then adopted HR 2760. The bill is a twofold approach to the problem of arms shipments from Nicaragua to the Salvadoran insurgents. It would deny funding now and in the next fiscal year for any direct or indirect support of military or paramilitary activities in Nicaragua. Support could continue for a period of time following enactment of the bill, but for the purpose of permitting insurgents who wished to make an orderly withdrawal from Nicaragua. The time period specified is a time certain but remains classified for the protection of those who choose to withdraw.

The second part of the bill proposes an alternative approach to arms interdiction. $30 million in fiscal year 1983 and $50 million in fiscal year 1984 would be authorized to be made available to friendly nations in Central America to develop programs or establish the capability to prevent the use of their territory, or international territory, for shipment of military equipment to insurgents in any Central American country. These funds would grant assistance in addition to that already requested for military aid to nations in this region. Assistance necessary to establish capabilities to interdict arms also could require the use of U.S. military trainers or advisors. No assistance provided under this part of the bill could be transferred to insurgents seeking to overthrow or destabilize any government.

HR 2760 is a comprehensive approach crafted to fit within existing U.S. policy initiatives, by directly countering the threat of Nicaraguan and Cuban arms support to the Salvadoran insurgents. It addresses the most basic security concern listed by the President — preventing the export of revolution from Nicaragua and Cuba — as it returns U.S. policy to a position from which it can assail this activity without fear of criticism. It thus would turn the tables on the Sandinista regime in Nicaragua. It is their support for revolution that would then bear the brunt of international scrutiny and the renewed criticism of their Latin neighbors. It would place additional pressure on Nicaragua to negotiate within the framework of one of the several regional proposals now being put forward. With the cessation of outside support for insurgents, it would once again allow the internal focus in Nicaragua to shift to political, social and economic problems — and to the accounting that the Sandinistas must give to the people of Nicaragua.

In adopting HR 2760, the Committee did not seek to usurp the President's duties as director and expositor of foreign policy. It sought only to change the means of achieving the President's goals — with which it was in agreement. The Committee recognizes that its proposal for arms interdiction assistance is a new variation of U.S. security assistance, and that the program envisioned by HR 2760 is an expensive one. Nonetheless, HR 2760 is the only comprehensive solution on which the Committee could agree that addresses both the problem of Nicaraguan and Cuban aggression and an end to U.S. policy failures in Nicaragua.

Activities of Cuba and Nicaragua

The Committee has regularly reviewed voluminous intelligence materials on Nicaraguan and Cuban support for leftist insurgencies since the 1979 Sandinista victory in Nicaragua. The Committee's review was indicated not only because of the importance of Central American issues for U.S. foreign policy, but because of decisions which the Congress was called upon to make on questions of aid to countries in the region. The Committee has encouraged and supported a full range of intelligence collection efforts in Central America.

Full discussion of intelligence materials in public reports would pose serious security risks to intelligence sources and methods. Necessarily, therefore, the Committee must limit its treatment of Cuban and Nicaraguan aid for insurgencies to the judgments it has reached. Such judgments nonetheless constitute a clear picture of active promotion for "revolution without frontiers" throughout Central America by Cuba and Nicaragua.

The Committee has not come newly to its judgments. On March 4, 1982, after a major briefing concerning the situation in El Salvador, the chairman of the Committee made the following statement:

> "The Committee has received a briefing concerning the situation in El Salvador, with particular emphasis on the question of foreign support for the insurgency. The insurgents are well trained, well equipped with modern weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support. The intelligence supporting these judgments provided to the Committee is convincing.
>
> There is further persuasive evidence that the Sandinista government of Nicaragua is helping train insurgents and is transferring arms and financial support from and through Nicaragua to the insurgents. They are further providing the insurgents bases of operation in Nicaragua. Cuban involvement — especially in providing arms — is also evident.
>
> What this says is that, contrary to the repeated denials of Nicaraguan officials, that country is thoroughly involved in supporting the Salvadoran

> insurgency. That support is such as to greatly aid the insurgents in their struggle with government forces in El Salvador."

On September 22, 1982, the Committee released a staff report of its Subcommittee on Oversight and Evaluation entitled "US Intelligence Performance on Central America: Achievements and Selected Instances of Concern". That report noted:

> "The intelligence community has contributed significantly to meet the needs of policymakers on Central America. Over the last two years perhaps its greatest achievement lies in determining with considerable accuracy the organization and activities of the Salvadoran guerrillas, and in detecting the assistance given to them by Cuba and other communist countries. Although amounts of aid and degrees of influence are difficult to assess, intelligence has been able to establish beyond doubt the involvement of communist countries in the insurgency."

At the time of the filing of this report, the Committee believes that the intelligence available to it continues to support the following judgments with certainty:

> A major portion of the arms and other material sent by Cuba and other communist countries to the Salvadoran insurgents transits Nicaragua with the permission and assistance of the Sandinistas.
>
> The Salvadoran insurgents rely on the use of sites in Nicaragua, some of which are located in Managua itself, for communications, command-and-control, and for the logistics to conduct their financial, material and propaganda activities.
>
> The Sandinista leadership sanctions and directly facilitates all of the above functions.
>
> Nicaragua provides a range of other support activities, including secure transit of insurgents to and from Cuba, and assistance to the insurgents in planning their activities in El Salvador.
>
> In addition, Nicaragua and Cuba have provided — and appear to continue providing — training to the Salvadoran insurgents.

Cuban and Sandinista political support for the Salvadoran insurgents has been unequivocable for years. The Committee concludes that similarly strong military support has been the hidden compliment of overt support. As the Assistant Secretary of State for Inter-American Affairs, Thomas O. Enders, stated (April 14, 1983) to the Committee on Foreign Affairs:

> "In 1980 (just as in 1978 Castro had brought the three main Sandinista factions together in Havana), Cuban agents brought five guerrilla factions from El Salvador together in Managua, worked out a unity pact among them, then set up a joint command and control apparatus in the Managua area and organized logistic and training support on Nicaraguan soil. Since that time, the great bulk of the arms and munitions used by the insurgents in El Salvador have flowed through Nicaragua."

Another area of serious concern to the Committee is the significant military buildup going on within Nicaragua. The President and other executive branch officials have addressed this subject publicly and exhaustively. Considering the small population of Nicaragua — two-and-one-half million people — and its weakened economic status — such a buildup cannot be explained away as solely defensive. Within the Central American isthmus, it poses a potential threat to its neighbors. The substantial Nicaraguan support for the Salvadoran insurgents offers no assurance that the Sandinistas will constrain their growing military might within Nicaragua's own borders.

Such a conclusion can be extrapolated from those discussions between the United States and Nicaragua about Sandinista support for the Salvadoran insurgents. According to Mr. Enders' April 14 testimony, three such discussions—in August, 1981; in the spring of 1982; and in October 1982—have already rendered fruitless U.S. efforts to end Sandinista support for the Salvadoran insurgents. While the Committee has reason to question certain elements of the U.S. negotiating posture, it is certainly clear that Nicaragua, backed fully by Cuba, has committed itself to continue full support for the insurgency in El Salvador.

U.S. Policy Response

The President, in his April 27 address, outlined the basic goals and elements of U.S. policy for Central America. The Committee also has elicited descriptions of U.S. policy in the region. The basic thrust of that policy, as explained to the Committee over a two-year period, is to stop the spread of communism by revolution. The threat of communism is embodied in the efforts of Cuba, Nicaragua, and less openly, the Soviet Union itself.

Specific U.S. efforts to defeat communist expansion in Central America are directed at certain changes in regional conditions, but they focus on El Salvador and Nicaragua. By trying to bring Nicaragua into regional negotiations with its neighbors, U.S. policy seeks to realize: regional improvements in democratization; removal of all foreign military advisors; an end to cross-border subversion and acquisition of heavy weapons from outside the region; and international monitoring of frontiers.

Congress and the public are more familiar with other U.S. programs of economic and security assistance to Central American nations. El Salvador has been the nation most threatened by insurgency and its military and socio-economic troubles are the most familiar points of concentration in debate about U.S. policy for Central America. There has been a hidden program of Central American policy, however, which has important consequences for the viability of the public aspects of the policy. This hidden program is the nominally covert provision of U.S. support and training to anti-Sandinista insurgents.

The Committee is cognizant of the great amount of news reporting and speculation about the nature of this covert program. The Committee is constrained in addressing these stories, some of which are accurate. Because of security constraints, this report can contain no further information about the actual facts of the program. A report on the program is required in order to understand the recommendations of the Committee embodied in HR 2760. The Committee has determined that, in order to protect intelligence sources and methods and the lives of those involved in the program, such a report should be given by the Committee in a secret session of the House. The unanimous decision of the Committee was to request such a secret session in the near future, most probably in connection with House consideration of HR 2760. While this report therefore cannot describe the program further, it can provide some outline of the Committee's consideration of the program and the conclusions reached in connection with the Committee's recommendations.

Committee Oversight

From the Committee's first briefing, in December 1981, on the program to support anti-Sandinista insurgency, serious concerns were expressed by members of the Committee. These concerns went to the number and tactics of the insurgents to be supported, whether these insurgents would be under U.S. control and the possibility of military clashes between Nicaragua and Honduras.

Five days after this first briefing, the Chairman of the Committee reiterated these concerns in a letter to the principal executive branch briefer. He emphasized that the concerns were shared by members of both parties and asked that they be addressed by senior policymakers. Significantly, he indicated that the Committee would require briefings on the program at regular intervals, a requirement considered important within the Committee because of uncertainties expressed in this letter.

In April 1982, following several such briefings, the Committee considered the fiscal year 1983 intelligence authorization budget bill. At a mark-up of the bill on April 5, 1983, the Committee considered, but rejected, motions to strike all funds for the program. Instead, the Committee adopted language in the classified annex to the report accompanying the bill that limited the uses to which funds authorized for the program could be applied. The program was to be directed only at the interdiction of arms to the insurgents in El Salvador. Funds in the program were not to be used to overthrow the government of Nicaragua or provoke a military exchange between Nicaragua and Honduras. The Committee insisted upon these restrictions in conference with the Senate on the authorization bill and they were retained, with modifications. Responsible executive branch officials were knowledgeable of, and participated in, these revisions. The conference report on the fiscal year 1983 intelligence authorization bill was filed and approved by both Houses in August 1982.

Throughout the period following its April budget mark-up, the Committee received additional briefings on this program. Then, in December 1982, an amendment in the House was offered to the FY 83 Defense appropriations bill which would have prohibited any form of support for the anti-Sandinista insurgents. Not without some misgiving, the chairman of the Committee proposed a substitute to that amendment prohibiting support "for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras", a restriction identical to that contained in the classified annex to accompany the conference report on the fiscal year 1983 intelligence authorization act.

The substitute amendment referred to above was adopted by the House by a vote of 411-0. In offering the amendment, the Chairman of the Committee noted that it was the duty of the Intelligence Committee to insure that activities involving lethal force did not get out of control.

The effect of the amendment adopted by the House and subsequently accepted in the conference on the fiscal year 1983 continuing resolution was to reinforce the restrictions of the fiscal year 1983 intelligence conference report while permitting continuation of the program. At the time of the adoption of the Committee, there was still a belief by the majority of members of the Committee that the program could be restrained within acceptable limits.

Following the enactment of the continuing resolution, the Committee increased the frequency of its briefings on the program. By the time of the first such briefing, however, Committee members were expressing renewed distress at the number of insurgents supported by the program, the serious nature of fighting then occurring within Nicaragua, and the lack of success in meeting the program's goals. In this period also, executive branch briefers discussed other goals and gave different emphases to the program than those originally described to the Committee.

By the beginning of April 1983, press accounts of the program's contribution to the anti-Sandinista insurgency, which had been occurring for more than a year, had greatly unmasked any pretense of the program's covertness. Some of these accounts may have been deliberately encouraged by executive branch officials.

By this time also, the question of whether the program was complying with legislative directions was fully before the Committee. In exploring this question, and in reviewing thoroughly the 17 months of the program's operation, the Committee heard from the Secretary of State and the Director of Central Intelligence. A forerunner draft of HR 2760 was circulated within the Committee in mid-April. In two meetings of the Committee concerning the program, votes or determinations were deferred, in the last case in order to hear the President's April 27 address to the Congress on Central America. A meeting scheduled the day following this address was also adjourned without decision on HR 2760. Finally, on May 3, 1983, the Committee met and ordered reported HR 2760, as amended.

Consideration of Amendments

The Committee adopted several amendments. The first amendment struck from section 801 (*a*) the words "or against", thus rendering the prohibition on the expenditure of funds in that section a ban on either direct or indirect support for military or paramilitary operations in Nicaragua, instead of "in or against Nicaragua". The Committee did not adopt this change to lessen the effect of section 801 (*a*), but rather to remove any doubt that the section could be read to prohibit acts by a recipient of section 802 (*b*) aid within its own territory or international territory to indirect arms, no matter what the nationality of the arms traffickers. The amendment also served to remove the argument that the section could prohibit the collection by the United States of intelligence about Nicaragua and its provision to any recipient nation. The amendment did not "water down" the prohibitions of section 801 (*a*) because the words "directly or indirectly" still apply to the ban on military or paramilitary operations in Nicaragua. Thus activities outside Nicaragua which have the effect of supporting military or paramilitary operations inside that country are not permitted by section 801 (*a*).

The Committee also adopted an amendment which sets a time period from the enactment after which the provisions of section 801 (*a*) take effect. This period is set forth in the classified annex to this report. The purpose of this amendment was to provide for as orderly a withdrawal as possible of anti-Sandinista insurgents within Nicaragua without providing Nicaraguan forces with the exact timetable for such a withdrawal.

The Committee also adopted an amendment providing that grant security assistance authorized by section 802 (*b*) could be provided to friendly Central American nations to interdict arms shipments from or through countries other than Cuba and Nicaragua. Lastly, the Committee adopted a clarifying amendment correcting a drafting error.

The Committee considered two other amendments, the first of which would have made the effective date of section 801 (*a*) hinge on the end of Sandinista arms, training, command-and-control or logistical support for the Salvadoran insurgents. The second amendment modified the first to make the effective date of section 801 (*a*) depend on the Sandinistas agreement to a verifiable agreement to cease such support.

This second amendment was debated fully by the Committee. In rejecting it, the Committee did not reject negotiations to stop the export of revolution. The

Committee fully supports negotiations regional or bilateral or both which seek this end. What it was unwilling to do was to condition an end to support for the anti-Sandinista insurgency upon possible negotiations of the kind which the executive branch has been reluctant to enter into with Nicaragua. The Committee has been disturbed by a lack of vigor in those diplomatic exchanges that have occurred. The Committee doubted the likelihood of Sandinista agreement in the face of what they consider an effort to overthrow them. Members of the Committee made this observation based on the effect this program had had on Sandinista conduct to increase, rather than decrease, support for the Salvadoran insurgents.

Members of the Committee also questioned the willingness of the executive branch to reach agreement with Nicaragua on the issue of a verifiable end to arms shipments. Based on frequent presentations to the Committee, it seemed unlikely that the executive branch would limit its demands to an end of Sandinista support for the Salvadoran insurgents. Present policy also seeks to force internal Nicaraguan political changes and military reductions. The record of failed dialogue with the Sandinista regime is a long one, and although the Committee hesitates to criticize executive branch handling of U.S. diplomatic relations in this area, it must observe that the record suggests a reluctance to modify in any way the present executive branch view of an optimal Central American solution. International perception of U.S. intransigence has further limited U.S. negotiating efforts.

The Committee rejected the amendments in question in the belief that continued support for the anti-Sandinista insurgency is contrary to U.S. interests. It strengthens internal and international support for the Sandinista regime; undermines the reputation of the United States abroad by calling into question U.S. support for the principles of international law; and polarizes this nation on foreign policy. This makes it very difficult to gain support for funding a strong U.S. posture in Central America, particularly in El Salvador, the real cockpit of action in the region.

Committee Judgments

Although the Committee must curtail severely its discussion, judgments concerning the program of support for the anti-Sandinista insurgency are necessary as a base from which to discuss the recommendations of HR 2760.

In its final review of the program, the Committee asked three questions:

Is the program consistent with the law and with the direction of the Congress?
Is the program a wise one?
Is the program successful?

While individual members give different emphasis to each of these questions, the following answers can be given.

As to the first question, the law says that the program may not have the purpose to overthrow the government of Nicaragua or provoke a military exchange between Nicaragua and Honduras. The fiscal year 1983 intelligence authorization conference report directs that funds may be used only for the purpose of the interdiction of arms. The Committee has reached the point where it is unwilling to assure the House that the present program meets both these requirements. The reasons for this judgment are as follows:

The activities and purposes of the anti-Sandinista insurgents ultimately shape the program. Their openly acknowledged goal of overthrowing the Sandinistas, the size of their forces and efforts to increase such forces, and finally their activities now and while they were on the Nicaraguan-Honduran border, point not to arms interdiction, but to military confrontation. As the numbers and equipment of the anti-Sandinista insurgents have increased, the violence of their attacks on targets unrelated to arms interdiction has grown, as has the intensity of the confrontation with Sandinista troops.

These groups are not controlled by the United States. They constitute an independent force. The only element of control that could be exercised by the United States, cessation of aid, is something that the executive branch has no intention of doing.

There are certainly a number of ways to interdict arms, but developing a sizable military force and deploying it in Nicaragua is one which strains credibility as an operation only to interdict arms.

Finally, and most importantly, the program has not interdicted arms. While this goes as much to whether the program is effective — the third question posed by the Committee — it also bears on compliance, if only because the only real results have been a challenge to the regime and heightened tensions with Honduras. In 18 months the Committee has not seen any diminishment in arms flow to the Salvadoran guerrillas, but rather repeated border clashes followed recently by heavy fighting well inside Nicaragua. In the process, innocent lives have been lost.

The second question is — is this wise? The Committee is forced to respond in the negative. Inflicting a bloody nose on nations achieves a purpose no different with nations than with individuals. It tends to instill a deep desire to return the favor. The Sandinistas are no different. Their policies have not softened. They have hardened. Eden Pastora, the former Sandinista "Comandante Zero", and now an opponent of the Sandinistas, has said that this program helps the Sandinistas in power. It tends to bind the Nicaraguan population — even those with little enthusiasm for the Sandinistas — together against the threat of attack. It is the best guarantee that the free elections the executive branch says it wants will not take place, and that the Cuban influence it seeks to diminish will grow.

Besides that, however, this is no longer a covert operation. The public can read or hear about it daily. Anti-Sandinista leaders acknowledge U.S. aid. Executive branch officials — in both official and unofficial statements — have made no secret of the elements of the program.

Finally, the Central Intelligence Agency, which until recently had a right to feel that it had regained some of the public confidence lost during the period of the mid-70s, is once again the subject of public scrutiny. It is being asked to continue an action whose principal elements are known to all the world. This again offers much food for propaganda to the Sandinista regime. It hurts the CIA, which is merely executing policy. It has put CIA witnesses — who do not make policy — in the increasingly uncomfortable position of trying to sell the program to an increasingly skeptical Congress.

The last question is — has this operation been successful? Some reasons listed above go to why the Committee believes the program has been counterproductive — why it achieves the very results the executive branch seeks to prevent — but the acid test is that the Salvadoran insurgents continue to be well armed and supplied. They have grown in numbers and have launched more and longer offensives. All this requires an uninterrupted flow of arms.

What also have increased, of course, have been even larger and more serious military exchanges between the paramilitary groups and Nicaraguan forces. The Committee does not view these exchanges as having impeded the arms flow. In fact, as they increase, there is an exponential growth in the loss of innocent life and the added possibility of clashes between Honduran and Nicaraguan troops. Neither results are legitimate nor justifiable.

A closing but timely note to these judgments can be made from the report of the Senate Select Committee to Study Government Operation with Request to Intelligence Activities (the Church Committee). In its discussion of paramilitary programs like the one that is the subject of this report, the Church Committee observed:

> "There are two principal criteria which determine the minimum success of paramilitary operations: (1) achievement of the policy goal; and (2) maintenance of deniability. If the first is not accomplished, the operation is a failure in any case; if the second is not accomplished, the paramilitary option offers few if any advantages over the option of overt military intervention. On balance, in these terms, the evidence points toward the failure of paramilitary activity as a technique of covert action."

The above discussion sets forth how the Permanent Select Committee on Intelligence answered the questions it has posed, but a solution is also called for. No member of the Committee believes that ending support for the anti-Sandinista insurgency will by itself induce a corresponding end in Sandinista support for the Salvadoran insurgents. The Committee does not wish to impose a unilateral restriction on US policy. Rather, it seeks to end an ineffective program which does real harm to the image of the US as a defender of democratic, peaceful change. That ineffective program must be replaced by a scheme of security assistance with direct US participation, openly offered and received, that aims to create a capability among friendly nations where none now exists.

The Committee has been told that an end to the program of support for the anti-Sandinista insurgency could cause a cataclysmic reorientation of nations friendly to the United States. Those nations, this Committee has been warned, would seek accommodation with Nicaragua and Cuba in the face of a failure of will by the United States. Floods of refugees would flock to the United States because of the Committee's recommendation.

The Committee finds these arguments lacking in merit, for its recommendation would replace the present "covert" program with open commitments, backed by substantial amount of aid, to provide its friends in the region the means to keep their borders secure. That is a reaffirmation — and a stronger one — of US commitment than conducting a secret war. The United States has a substantial stake in Central America, which the President has set forth to the nation. For the price of a somewhat larger security assistance program, US foreign policy can regain the high, firm ground it must maintain to bring the scrutiny of world opinion upon Nicaraguan and Cuban adventurism in Central America. Such scrutiny — and its self-interest in strong economic relations within a prosperous Central America — are what will bring Nicaragua to the bargaining table.

The Committee, of course, can only recommend the favorable adoption of the security assistance program proposed by HR 2760. That power lies with the Committee on Foreign Affairs, which must reconcile the bill with the full US range of assistance in Central America. The Committee feels compelled to note, however, that Sandinista support for the Salvadoran insurgents continues to be important for the continuation of that insurgency. To ignore this key link is to provide an important military edge to these insurgents. Ending the US program supporting anti-Sandinista insurgency will not alone change this aspect of

Sandinista policy. The Committee agrees with the executive branch that U.S. commitment to its friends in Central America must be seen as strong and enduring. Such commitments balanced by economic assistance and political reform, and coupled with one or more of the peace initiatives now being advanced within the region, offer the only real prospect of preventing the export of revolution. The United States must therefore cease providing its adversaries the specter of another "Bay of Pigs", of renewed Latin interventionism, and restructure its support for democracy in Central America. The discussions now sponsored by the Contadora group of nations presently offer the best framework for restructuring the U.S. approach to Central America along these lines. Such an effort should be encouraged and then implemented.

Section-by-Section Analysis

Section 801 (a)

This subsection prohibits the obligation or expenditure of any funds appropriated in either fiscal year 1983 or fiscal year 1984 to the Central Intelligence Agency or any other part of the United States Government involved in intelligence activities intended for, or resulting in, directly or indirectly, support for military or paramilitary operations in Nicaragua by any foreign country or by any group, organization, movement, or individual. Because the prohibitions apply to any obligations or expenditures which directly or indirectly support military or paramilitary operations by those entities in Nicaragua, it prohibits support of entities located outside Nicaragua which operate within the territory of Nicaragua. Even indirect support, such as training, which is provided exclusively outside Nicaragua, but which is given in preparation for military or paramilitary activity in Nicaragua, is prohibited.

At the same time, section 801 (*a*) does not prohibit the collection, production, or analysis of intelligence by U.S. intelligence elements, nor the provision of such intelligence to friendly foreign countries, as long as such activity does not support military or paramilitary operations in Nicaragua by any foreign nations or other entity.

In time of war, or in the case of a commitment of U.S. military forces during a period covered by a report from the President under the War Powers Resolution, support for military or paramilitary operations to complement those by U.S. forces may be appropriate. Such might be the case if Honduras or Costa Rica were attacked by Nicaragua. In such an event, the President would no doubt request a relaxation of the strictures on foreign insurgencies. Such an adjustment undoubtedly would be accomplished expeditiously.

It is also important to note that this section in no way limits the ability of the United States to provide assistance — under section 802 or any other provision of law — which would help any friendly Central American nation in policing its sovereign territory. Thus, U.S. military or other assistance to any such country could be used within its borders or in international territory to defend that country or to prevent the use of its territory by those who seek to illegally transship arms or materially support uprisings against it.

Section 802 (b)

This subsection provides that subsection (*a*) shall take effect at a time certain after the date of enactment of the bill. The period of time is set forth in the classified annex accompanying the bill. The time period is estimated by the

Committee to be a reasonable time for the orderly withdrawal of forces whose logistical support would be cut off by the action of subsection *(a)*. The specific time period is classified so as to forestall hostile military action against such forces during or towards the end of the period in question. Thus, it is hoped that withdrawal can be accomplished in a less vulnerable fashion than might result if the withdrawal period were known publicly.

Section 802 (a)

This subsection states that it is the finding of Congress that, absent a state of war, providing military equipment to entities seeking to overthrow Central American governments is a violation of international law, including the Charters of the United Nations and the Organization of American States, and the Rio Treaty of 1949; and that Cuba and Nicaragua are engaged in such actions, which threaten the independence of El Salvador and threaten to destabilize all of Central America; and that Cuba and Nicaragua refuse to stop such actions. These findings are borne out by the facts set forth in the body of the report.

Section 802 (b)

This subsection authorizes the President to provide to any friendly Central American country grant security assistance specifically designed to assist such country to acquire the capability to prevent the transfer of military equipment from or through Cuba or Nicaragua or any other country or its agents which the President decides is intended to be used to overthrow that or any other Central American government. The President sets the terms and conditions of such assistance and is also required to determine which entities or individuals seek to overthrow the government of any Central American nation. The President may delegate his responsibilities under this subsection. The Committee would expect that the Secretary of State would be the appropriate official should the President do so.

The grant assistance authorized by this subsection must be openly provided. It is, as such, another form of US security assistance, although perhaps unique in its purpose. Such assistance therefore should be administered and reported to Congress, as far as possible, in the same manner as other US security assistance programs. The subsection specifically prohibits attempts to conceal US sponsorship of the assistance programs contemplated by this bill.

The Committee understands that the types of grant assistance which could be offered under this subsection cover a broad spectrum. Such assistance may include, but is not limited to, support for detection, tracking, blocking or preventive action by recipient nations to help prevent arms trafficking through their territory or international territory. In the first category — detection efforts — would be included the purchase of sensors, surveillance or reconnaissance equipment, training in their use, and the operation of such equipment.

The second category — tracking efforts — could embrace the purchase of radar or other intelligence collection equipment, training or advice on its use or in other tracking efforts, as well as operations involving implementation of this equipment and training.

The third category — blocking efforts — could include erection of barriers or other engineering devices, and advice or training in the erection and use of such devices.

The last category — preventive action — would take into account any border patrol or interdiction-type missions, training or advice in the development of such techniques, and any military, police, customs, or other activities that serve the purpose of preventing arms trafficking. This category could also include any efforts to support multilateral or bilateral, verifiable, and reciprocal agreements to bring about a halt in the fighting in Central America. An example in this last area might be the kind of international policing force recently requested by Costa Rica from the Organization of American States. US assistance under this subsection could be used by Costa Rica to defray the cost of maintaining such a force.

The Committee feels that such agreements offer the best hope for curbing externally-supported insurgencies and wishes to endorse and encourage the concept of a regional peace initiative.

A friendly foreign country is understood by the Committee to be a country considered by the President to be a country friendly to the United States at the time the President decides to furnish assistance under this subsection to that country.

The Committee expects that much of the assistance — particularly training, technical assistance or advice — provided under the authority of this subsection could involve the use of US military personnel. It should be emphasized that, since the program of assistance envisioned by this subsection is intended to supplement other types of security assistance, any outstanding restrictions on the numbers of US military advisors permitted within a recipient country would constrain significantly the efficacy of that program. Accordingly, any such restrictions should be reviewed by the Committee on Foreign Affairs with this in mind.

The Committee is also compelled to note that the Secretary of Defense has indicated that, in his view and that of the Joint Chiefs of Staff, the goal of providing friendly Central American nations with the capability — which they would then exercise — to effectively interdict the Nicaraguan Cuban arms flow through their territory contemplated by this subsection may be very difficult to achieve. Nonetheless, the aim of the programs to be established by subsection *(b)* is to provide — through initial training, assistance, and advice — recipient nations with the capability to eventually do the task of arms interdiction on their own. This is why the bill authorizes funds only for fiscal year 1983 and fiscal year 1984. The Committee intends that this program be reviewed before continuation in later years so that questions like the number and need for US military advisors can be revisited by the Congress. In other words, the Committee views the capabilities transfer authorized by this bill to be a transfer process which will at some point in the forseeable future no longer require direct US assistance or training.

Section 802 (c)

This subsection conditions the provision of any US assistance to any friendly Central American nation upon the stipulation of that country that it will not use any such assistance to destabilize or overthrow the government of any other Central American nation or provide any such assistance to another nation, individual, or entity that seeks to destabilize or overthrow the government of another Central American nation.

The Committee wishes to emphasize that activities by any recipient nation within its own territory to defend itself or prevent the use of such territory for the transfer of military equipment intended to be used to overthrow any Central American government does not fall within the concepts of destabilization or attempting to overthrow another government. Rather, such activity, or actions clearly incidental thereto, is self-defense or the exercise of a police power which is the right of any sovereign nation. This is true even if the individuals affected by such defensive or policing actions are nationals — even military personnel — of another nation.

In time of war, the same will also hold true. As long as a recipient nation's efforts are to defend itself and its territory, it cannot be considered to be attempting to destabilize or overthrow another country's government. Rather, its efforts would be aimed at the defeat of another country's military forces, not the overthrowing of that country's government. Numerous modern examples — Turkish action in Cyprus, Israel's incursion into Lebanon, and Britain's recovery of the Falkland Islands — serve to reinforce this point. The Committee intends, in short, that this subsection be interpreted in the same vein as are comparable provisions of the Foreign Assistance Act and the Arms Export Control Act. Therefore, when questions arise as to the nature of activities or anticipated activities engaged in by recipient nations, what is called for are consultations and clarifications with recipient nations. The reports of any U.S. advisors involved in assistance programs contemplated by this bill can assist in such discussions.

Section 802 (d)

This subsection would require the President to provide to Congress an unclassified report describing the nature of assistance proposed to be provided to a particular foreign country under subsection (*b*). Such reports are required to be provided at least 15 days prior to the actual provision of such assistance, thus allowing for congressional inquiry about the proposed aid.

While the report required by the subsection is the only one stipulated by the bill, the Committee expects that the Committee on Foreign Affairs will from time to time require information from the executive branch so as to review the progress and accomplishments of assistance programs in recipient countries. Such oversight, as well as reviews by the Committee on Appropriations, is necessary to ensure successful implementation of arms interdiction assistance. Budget requests beyond fiscal year 1984 would require the preparation of justification materials similar to those provided for other security assistance programs.

Section 802 (e)

This subsection authorizes appropriations in fiscal year 1983 of $30 million and in fiscal year 1984 of $50 million for the provision of the assistance proposed by the bill.

Two aspects of these figures require comment. First, the Committee recommends the sum of $50 million in fiscal year 1984 principally on the basis of a full year's comparable expenditures in a number of related areas. This estimate also allows for inflation and a modest margin of unforeseen cost escalation. Thus the figure represents the Committee's rough estimate of what a comprehensive arms interdiction assistance program would cost, but is based upon what ongoing comparable efforts would amount to in fiscal year 1984.

While the Committee's cost estimates are rough ones, it is clear that some endeavors appropriate for arms interdiction in the rough jungle terrain of Central America will be expensive. Two such approaches the Committee feels have merit are radar and barrier fencing.

Much of the arms now flowing from Nicaragua to El Salvador has in the past gone via small planes or helicopters. The necessary radar equipment to acquire and track such air traffic is expensive. For instance, the TPS-13, the radar system now in Honduras, is the same radar used by the Argentine forces at Port Stanley during the Falkland Islands conflict. That search and surveillance radar, with an effective range of 300 miles, costs $10 million with necessary support equipment and requires 20 trained personnel for its operation.

In the area of fencing, it is apparent that in discrete areas where such barriers can be effective, it will take miles of fencing to cordon off key land supply routes. The Committee does not contemplate fencing entire borders. Nonetheless, a single fence line constructed in the United States can cost $168,000 per mile on level ground; the cost of a double fence could escalate to $227,000 per mile. The Committee would anticipate that costs for similar fencing in the often rough terrain in Central America could be similarly expensive.

For the fiscal year 1983 figure, the Committee has estimated that a half year's effort would be provided, assuming approval of the bill within a reasonable time. The additional $5 million represents an estimate of up-front logistical, equipment, and transportation costs that likely would arise with the initiation of such a program in fiscal year 1983.

The second point to be made is that the Secretary of Defense has indicated to the Committee that an effective interdiction program in Central America may be more costly than contemplated by the bill. The Committee, as of the time of the filing of this report, was attempting to seek further clarification of this statement.

Further details of the cost estimates in fiscal year 1983 and fiscal year 1984, as well as the letter of the Secretary of Defense, are included in the classified annex to this report.

Committee Position

On May 3, 1983, the Permanent Select Committee on Intelligence, a quorum being present, approved the bill with amendments and ordered it favorably reported by a recorded vote of 9 to 5.

Oversight Findings

With respect to clause 2(1)(3)(A) of Rule XI of the House of Representatives, the Committee has held extensive briefings, hearings and meetings regarding the nature and conduct of intelligence activities that would be affected by this legislation. This review and the recommendations of the Committee are summarized in the body of this report and its classified annex and will be further amplified in a secret session of the House of Representatives at an appropriate time in the future.

Fiscal Year Cost Projections

With respect to clause 2(1)(3)(B) of Rule XI of the House of Representatives and section 308 (*a*) of the Congressional Budget Act of 1974, this legislation does not provide new budget authority or tax expenditures. The Committee estimates, pursuant to clause 7 (*a*) (1) of Rule XIII of the House of Representatives, that the outlays which will occur in fiscal year 1983 will not exceed $30 million and that outlays which will occur in fiscal year 1984 will not exceed $50 million. This bill does not authorize expenditures beyond fiscal year 1984 and the Committee would anticipate that additional legislation would be required if expenditures beyond fiscal year 1984 are necessary. The executive branch has not submitted any budget estimates with which the Committee can compare its own estimates.

Congressional Budget Office Estimate

With respect to clause 2(1)(3)(C) of Rule XI of the House of Representatives, the Committee has received no report from the Congressional Budget Office.

Recommendation of the Committee on Government Operations

With respect to clause 2(1)(3)(D) of Rule XI of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject of the bill.

Inflationary Impact Statement

Pursuant to clause 2(1)(4) of Rule XI of the House of Representatives, the Committee has attempted to determine the inflationary impact of the bill.

The Committee finds no adequate method to identify the inflationary impact of the bill. Further, the bill does not provide specific budget authority but rather an authorization for appropriations. Hence, any inflationary impact would depend on the amounts actually appropriated and the strain that short supplies of materials, production capacity, or other economic resources would place on industrial capacity or financial markets.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter printed in italic, existing law in which no change is proposed is shown in roman):

Intelligence Authorization Act for Fiscal Year 1983

TITLE I—INTELLIGENCE ACTIVITIES

. . . .

TITLE VIII—PROHIBITION ON COVERT ASSISTANCE FOR MILITARY OPERATIONS IN NICARAGUA; AUTHORIZATION OF OVERT INTERDICTION ASSISTANCE

PROHIBITION ON COVERT ASSISTANCE OR MILITARY OPERATIONS IN NICARAGUA

Sec. 801. (a) None of the funds appropriated for fiscal year 1983 or 1984 for the Central Intelligence Agency or any other department, agency, or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

(b) This section shall take effect upon the date prescribed in the classified annex to the Committee report accompanying this bill.

AUTHORIZATION OF OVERT INTERDICTION ASSISTANCE

Sec. 802. (a) The Congress finds that—

(1) in the absence of a state of declared war, the provision of military equipment to individuals, groups, organizations, or movements seeking to

overthrow governments of countries in Central America violates international treaty obligations, including the Charter of the United Nations, the Charter of the Organization of American States, and the Rio Treaty of 1949; and

(2) such activities by the Governments of Cuba and Nicaragua threaten the independence of El Salvador and threaten to destabilize the entire Central American region, and the Governments of Cuba and Nicaragua refuse to cease those activities.

(b) *The President is authorized to furnish assistance, on such terms and conditions as he may determine, to the government of any friendly country in Central America in order to provide such country with the ability to prevent use of its territory, or the use of international territory, for the transfer of military equipment from or through Cuba or Nicaragua or any other country or agents of that country to any individual, group, organization, or movement which the President determines seeks to overthrow the government of such friendly country or the government of any other country in Central America. Assistance under this section shall be provided openly, and shall not be provided in a manner which attempts to conceal United States involvement in the provision of such assistance.*

(c) *Assistance may be provided to a friendly foreign country under this section only if that country has agreed that it will not use any assistance provided by the United States under this section, the Foreign Assistance Act of 1961, or the Arms Export Control Act to destabilize or overthrow the government of any country in Central America and will not make any such assistance available to any nation, individual, group, organization, or movement which seeks to destabilize or overthrow any such government.*

(d) *At least 15 days before providing assistance to a foreign country under this section, the President shall submit an unclassified report which describes the proposed assistance to the Speaker of the House of Representatives and to the chairman of the appropriate committees of the Senate.*

(e) *There is authorized to be appropriated to the President to carry out this section $30,000,000 for the fiscal year 1983 and $50,000,000 for the fiscal year 1984.*

ADDITIONAL VIEWS OF HON. DAVE McCURDY

There is a compelling case for continued American involvement in Central America, and I fully support President Reagan's request for additional military and economic aid to our allies there. At the same time, I am seriously concerned about the direction our present involvement is taking. The Administration has been disingenuous in maintaining that the sole purpose of its covert assistance is to halt the flow of weapons into Nicaragua. In doing so, it has seriously damaged prospects for Congressional approval of overt as well as covert aid.

Covert activity should be a tool of overall policy, not a substitute for it. But it has not been demonstrated to me that our government has a well thought out policy with respect to Nicaragua. As a supporter of the President on much of his defense posture, and as one who believes that the President is our chief national spokesman on foreign affairs, I was willing to give him the benefit of the doubt throughout the Committee's deliberations on this bill. Had he been willing to impose reasonable restrictions on covert operations within Nicaragua — in order to prevent indiscriminate attacks on civilian and economic targets, for example — and had he shown some good faith efforts in negotiating with the Nicaraguan government, it might have been possible to develop an alternative to the Committee bill. On three separate occasions, however, the highest officials in the Administration rejected direct offers of compromise. Just one week after he told a Joint Session that "Congress shares both the power and the responsibility for our foreign policy", the President publicly reiterated his refusal to accept any conditions on US assistance.

Valid objections can be made against the first section of the Committee bill, which prohibits covert action within Nicaragua. The Sandinista government poses a clear threat to the security of its neighbors and to the United States. With help from the Soviet Union and Cuba, it is supplying aid and arms to rebel factions in El Salvador, and is attempting to export Marxist revolution throughout Central America. These considerations, however, are not sufficient to warrant giving the Administration carte blanche for the unlimited arming and equipping of thousands of anti-Sandinista troops whose aim is to overthrow their country's government. At best, it is hypocritical for us to condemn subversion in El Salvador and encourage it in Nicaragua. The recent slayings of a West German physician and twelve of his helpers near the Honduran border prove all too convincingly that such activity is not being restricted to military targets.

We should have learned from our experience in Southeast Asia that without a clearly defined policy, without public support for that policy, and without realistic limits on the use of force, we can easily be sucked into a bottomless pit. As Machiavelli wrote, "Wars are begun at will but not ended at will". Anti-Sandinista leaders themselves have said that a point has been reached, or soon will be, at which there is no turning back and the war cannot be stopped.

I hope the overt interdiction assistance outside of Nicaragua that is authorized in the second section of the Committee bill will help reduce the risk of open war, but it is not a solution to the underlying problem. We must begin serious regional talks to find that solution. More than one-quarter of a billion people live in Latin America; Nicaragua, a nation of fewer than three million people, cannot stand alone. Regrettably, the United States has lost what leverage it may have had with the present regime in Nicaragua. Nevertheless, we should continue to urge the Nicaraguan government to call for free elections and a free press, as we must continue to encourage the growth of democratic institutions in El Salvador and other countries in the region. We should be under no illusion that these goals can be accomplished quickly, or by economic assistance alone.

Unless the President and Congress can work together, we risk damaging our relations with other Latin American countries. Regardless of the fate of this particular legislation, I urge the President to make good on his commitment to "lay the foundation for a bipartisan approach to sustain the independence and freedom of Central America".

Dave McCurdy.

ADDITIONAL VIEWS OF HON. LOUIS STOKES

Although I support fully the recommendation of section 801 to cut off any funds for military or paramilitary activity in Nicaragua, I have serious reservations about the Committee's advice to the Committee on Foreign Affairs that it should authorize additional foreign assistance funds for arms interdiction by nations in the region.

I understand that the thrust of HR 2760 is to provide a comprehensive approach to the question of Nicaragua, both its efforts to arm the Salvadoran rebels and the insurgency which our country has supported against Nicaragua. I agree with the positive, bipartisan spirit that underlies this approach. Where I part company with the approach of HR 2760 is in the judgment underlying section 802, that more foreign assistance funds will be either effective or helpful to the people of the region.

My expectation, and that of my colleagues supporting HR 2760, is that the principal recipients of interdiction aid are likely to be El Salvador and Honduras. It is unclear to me that these nations, utilizing border patrols or even sophisticated detection and surveillance equipment, will stem the flow of arms through the extremely rugged terrain along much of the Honduran-Nicaraguan border. The activity of the Salvadoran insurgents hasn't been stopped by efforts to date and there is no reason to expect they will be appreciably affected by the as-yet-undefined efforts contemplated by HR 2760.

More importantly, both El Salvador and Honduras are undeserving recipients of the significant amounts of aid proposed. In the case of El Salvador, the abuse of human rights goes on. The most helpful sign to which the administration can point at present is an abatement in the numbers of murders in that country.

The Salvadoran judicial system is not known for meting out justice. Its accomplishments lie in protecting from the reach of justice those who abuse justice and deny it to others. Underlying this aspect of Salvadoran society seems to be a genuine apathy to an incredible, harmful profusion of killings and torture — not just of US citizens — but of thousands of fellow Salvadorans.

The Salvadoran military today poses as real a threat to the hoped-for reinstitution of democratic government as it ever has to the rebels. Salvadoran officers are running a 9-to-5 war in which the momentum is shifting to the rebels because of the way the military treat innocent bystanders and civilians. Often army units terrorize the population in a way that the rebels never do.

Finally, Salvadoran commitment to basic social and economic justice can also be questioned. The land reform program does not present as rosy a picture to Salvadoran peasants as President Reagan paints.

If El Salvador were to receive additional aid under HR 2760, it would go to the military. In light of what I believe the situation to be at the moment, the use of which the Salvadoran military will put this money will not help solve the problems which I enumerate. Until they begin to do so, I will not support new military aid to El Salvador.

In Honduras, it is US policy to encourage the nascent return to democratic, civilian rule. Already the tension caused by the insurgency launched from the Honduran territory against Nicaragua, while threatening peace between the two countries, seems to increase daily the strength and influence of the military.

I am concerned that the emerging democratic forces in Honduras could become overwhelmed by the military if we pump in more military aid. I fear more security assistance will not further strengthen Honduran democracy, but only the military who so long have ruled this country.

Because I believe that HR 2760 represents a sincere and comprehensive attempt to answer the problems posed by Nicaraguan support for Salvadoran rebels, and because I know the bill would go to the Committee on Foreign Affairs, I voted for the bill. I commend Chairman Boland and my colleagues who support the bill but I urge my colleagues who serve on the Committee on Foreign Affairs to most carefully weigh the questions I pose and those that will occur to others as they examine this proposal.

Clearly, the most important part of the bill is ending covert assistance to insurgents seeking to overthrow the government of Nicaragua. Nicaraguan problems are their own and the United States has no business bullying them into compliance with a US version of democracy. The United States should move slowly in this region and with a full realization of the memories Central Americans have of past US intervention and the pitfalls that lie in the modern versions of that same course.

LOUIS STOKES

MINORITY VIEWS ON HR 2760

The problems which confront Central America are extremely complex. There are no easy answers and there is no panacea to the region's problems. We are of the opinion that HR 2760 does not adequately address these complexities.

In recent days focus on a few areas of disagreement may have overshadowed a most important and significant point about which this Committee finds itself in substantial, if not total, agreement. First, we wish to strongly associate ourselves with the findings in the Committee report regarding the activities of Nicaragua and Cuba. There is incontrovertible and convincing evidence that Nicaragua is aiding the efforts of guerrilla insurgents to overthrow the Government of El Salvador. We agree wholeheartedly with the Chairman's statement of March 4, 1982,

> "that there is further pervasive evidence that the Sandinista government of Nicaragua is helping train insurgents and is transferring arms and financial support from and through Nicaragua to the insurgents (in El Salvador). They are further providing the insurgents bases of operations in Nicaragua. Cuban involvement especially in providing arms is also evident."

Additionally, the Chairman stated that:

> "contrary to the repeated denials of Nicaraguan officials, that country is thoroughly involved in supporting the Salvadoran insurgency. That support is such as to greatly aid the insurgents in their struggle with the government forces in El Salvador."

We are in absolute agreement with the conclusion of the Committee report with regard to the actions of Nicaragua and Cuba. We, too, are convinced

> that Nicaragua is exporting revolution in Central America and contributing to the destabilization of the entire region;
>
> that there is a disturbing and significant military buildup going on in Nicaragua;
>
> that Nicaragua poses a serious threat to all its neighbors in Central America; and
>
> that the substantial Nicaraguan support for the Salvadoran insurgents offers no assurance that the Sandinistas will constrain their growing military might within Nicaragua.

It should be abundantly clear to even the most skeptical of individuals that the Sandinistas consider their commitment to Cuba far more important than their commitment and promises to the Nicaraguan people.

COMPLIANCE WITH THE (BOLAND AMENDMENT) LAW

We feel it should be noted that, however well intended, the origination of HR 2760 was predicted on the assumption that the Administration was not complying with the spirit and intent of the Boland Amendment. Concerned about this allegation, we have reviewed the Committee transcripts and the legislative history created on the House floor and are convinced that there has been no violation of the law. First, the House voted on a proposal which would have denied funds for the purpose of carrying out military activities in or against Nicaragua. That proposal was defeated. Secondly, the House voted on a proposal which would have denied funds to groups or individuals known by the United States to have the intent of overthrowing the Nicaraguan government. That, too, was defeated. There should be no doubt that the House objected to a prohibition of funds based on the intent of the groups or persons receiving the funds. In the other body, a similar amendment was rejected which would have prohibited funds in support of regular military forces or paramilitary groups operating in Central America. If either of these proposals had been adopted, US aid to the anti-Sandinistas would have been illegal. However, neither amendment prevailed. The substantially different language proposed by Chairman Boland was approved by a vote of 411 to 0. We hope to share with the House in a secret session additional classified documentation reflecting the Committee's understanding of the consequences of the Boland language. The wording of the Boland amendment on its face, in our view, clearly allows aid to the anti-Communist guerrilla forces in Nicaragua for purposes other than overthrowing the Sandinistas, which the other amendments would have barred. The Boland amendment was a compromise which did not contemplate a total prohibition against our US presence in Central America.

One may wish to argue with the US policy determination in this matter or wish to change our policy altogether but we think one should begin with the premise that the President has not violated either the spirit or the letter of the law.

NEGOTIATIONS

The United States' relations with the Sandinista Nicaragua government had tenuous beginnings. Despite the initial misgivings, the United States and Nicaragua recognized the mutual benefits of good relations and significant efforts at negotiations have been made. The Carter Administration adopted a policy of "friendly co-operation" and included the provision of "effective and timely assistance". The previous administration urged that the Nicaraguan revolution should be judged by its actions and that the change in government was a matter of loss of confidence in the former incumbent government rather than the work of the Cuban-Soviet based intervention. Based on that assumption from July to September 1979 the US provided a total of $24.6 million in emergency relief and recovery aid to Nicaragua. By January 1981, direct US assistance to the national government of Nicaragua totaled $118 million and, in that timeframe, multilateral lending institutions also provided an additional $262 million in aid from the Inter-American Development Bank. The last Administration had hoped that through our encouragement and economic assistance the Nicaraguan government would transform itself from a revolutionary exporter to a free and democratic society by using the US aid to bolster the private sector.

In September 1980 President Carter certified to Congress that Nicaragua was not supporting violence or terrorism in Central America, thus meeting the requirements of section 533 of the Foreign Assistance Act. At that point in time, several Members of Congress asserted that in making the certification, the President was ignoring our intelligence reports which indicated that the Nicaraguan government was assisting the leftist Salvadoran guerrillas. After several months of reviewing the facts, the Carter Administration reversed itself and decided that evidence warranted the cutoff of the remaining aid and quietly suspended disbursement of the funds in late 1980.

This Administration, following on the heels of the previous Administration's actions, reviewed this situation once again prior to revoking the section 533 finding. Only after well-documented evidence of Nicaraguan assistance to the Salvadoran guerrillas did this Administration suspend disbursement of funds. On April 1, 1981, the US claimed that the Nicaraguans were providing political and logistical help to the Salvadoran guerrillas. Because of the deterioration of the relationships of the two countries, in August of 1981 Assistant Secretary of State Thomas O. Enders visited Nicaragua in an attempt to negotiate with the Nicaraguans. This Administration conveyed to the Nicaraguan government at that time that the US was willing to resume aid if certain conditions were met; the most basic of these conditions being that the Nicaraguan leaders cease their support of guerrillas in El Salvador. Also discussed at that time was the United States' desire that Nicaragua stop its military buildup and guarantee political pluralism. The Sandinista government made no substantive response to the American overture and, after a very brief period, the Sandinista government revealed their answer in continuing support for the Salvadoran guerrillas.

On March 23, 1982, Honduras presented a six-point regional peace plan calling for, among other things, a halt to the arms trafficking and mutual pledges of nonintervention. Nicaragua made no substantive response. Again, April 1982, US Ambassador Anthony Quainton delivers an eight-point proposal to reduce tensions which included a joint pledge of non-interference and called for the end to Nicaraguan support for insurgencies. The Nicaraguan government responded but did not address the US plan. Again, October 4, 1982, in a multilateral call for negotiations, eight regional democracies set forth the essential conditions for peace in Central America. Nicaragua refused to discuss conditions. On February 24, 1983, Costa Rica, Honduras, El Salvador and Guatemala offered a meeting of regional foreign ministers, including Nicaragua, to discuss resolution of conflict in Central America. The five other Latin States would also attend the meeting as observers and the US was not to be a participant. Nicaragua did not respond. Finally, in late April all five Central American countries, including Nicaragua, attended a meeting sponsored by the Contadora foreign ministers (Mexico, Panama, Venezuela and Colombia). Nicaragua refused to participate in any multilateral negotiations.

During the period in which bilateral and multilateral negotiation attempts were initiated, the anti-Sandinista opposition groups were also trying to open a dialogue with the Sandinista government. There have been numerous other attempts, public and not so public, to bring the Nicaraguans to the negotiation table without success. There should be no doubt that this Administration and other Central American governments have endeavored, and will continue to endeavor, in good faith to negotiate a peaceful cessation of the hostilities in Central America.

It has only been recently, and partially due to our successful efforts to interdict arms supplies from Nicaragua and to force the Nicaraguans to turn internally and seek solutions to their own problems, that we have been successful in communicating to the Nicaraguans that we are serious about our commitment to support stable, peaceful governments in the region. Our willingness to make the point that the Nicaraguan Cuban influenced government will not be allowed to operate freely in imposing their will upon other countries, now offer some real and present prospect of hope for either bilateral or multilateral talks.

FOREIGN POLICY

As we stated earlier, we are of the opinion that HR 2760 does not adequately address the myriad of complex issues any effective Central American foreign policy must address. This bill would deprive the executive branch of authority to conduct a critical and effective element in its policy to thwart the emerging threat of Cuban/Nicaraguan sponsored insurgencies in Central America. The President, the Secretary of State, the Secretary of Defense, the Director of Central Intelligence and the Chairman of the Joint Chiefs of Staff have all clearly articulated the need for this program to counter the Cuban-sponsored insurgencies. The bill restricts the options available to the President in combating hostile activities directed at peaceful American States. As the President so clearly expressed in his April 27, 1983, address to Congress, the United States seeks:

> (1) a reciprocal and verifiable withdrawal of foreign military and security advisors and troops;
>
> (2) a verifiable reciprocal agreement among Central American nations on the renunciation of support for insurgencies on neighbors' territory;
>
> (3) a verifiable reciprocal agreement on the non-importation of offensive weapons into Central America; and
>
> (4) to encourage full participation in the political processes of the Central American nations.

This bill does not further the accomplishment of any of these critical objectives; rather, the legislation poses additional dangers both to human lives and the credibility of present and future American commitments.

In establishing the interdiction fund — does the Committee suggest that, rather than attempting to disarm or neutralize Nicaragua, we must endeavor to arm every friendly country in Central America to the point that they can protect themselves against invasion? What about Costa Rica, which has no standing army? This is not consistent with the President's goal to seek reciprocal agreements among Central American nations on the renunciation of support for insurgencies on neighbors' territories. There are also those who may feel that increasing military arms to a country strengthens the hand of the military and could conceivably discourage full participation in the political process by encouraging a stronger and more repressive military presence in any small Central American nation. This too is not in accord with the President's policy goals.

HR 2760 establishes an overt interdiction assistance program to be made available to friendly nations in Central America to develop programs or establish the capability to prevent the use of their territory for the shipment of military equipment to insurgents in any Central American country. By definition, these funds would grant assistance in addition to that already requested for military aid to the nations of the region. This does not support the President's policy against the importation of offensive weapons into Central America. In addition, the Committee report suggests that additional assistance may be necessary to accomplish and establish the capabilities to interdict arms. Does the Committee mean to suggest that in order to provide "adequate" arms interdiction assistance that additional U.S. military advisors have to be committed in Central America? This is inconsistent with the goal expressed by the President to seek reciprocal and verifiable withdrawal of all foreign military and security advisors and troops in Central America.

The U.S. cannot attempt to protect the Sandinista government from the people of Nicaragua absent U.S. support for anti-Sandinistas. There are no assurances that the people of Nicaragua will not continue to fight an oppressive Marxist government. A majority of the members of the Committee may believe that their approval of HR 2760 reflects an act of highest statesmanship, committing the United States to a policy of peace. Nothing could be further from the truth. In handing the Sandinistas a legislatively engineered victory, we can only assure the American people that in the long run a higher price will be extracted in increased human suffering and loss of life in Central America.

The Committee report gives the impression that the presence of anti-Sandinista insurgents in Nicaragua has not been successful. To the contrary, given the limited goals and the operational objectives, the program has in fact been successful. This program has only been in place for little over a year and as referred to by the Joint Chiefs of Staff, the program is a successful one. Also, in making the statement that the program has not interdicted arms, one should look at the definition of the word "interdict". *Webster's New Collegiate Dictionary* defines "interdict" as "to forbid in a formal or authoritative manner; to destroy, cut or damage; as in enemy line of supply, by firepower; to stop or hamper an enemy". This does not necessarily carry with it the connotation that actual arms munitions should be seized and be in the possession of the interdiction force. The question of "how many bullets have you interdicted?" is totally inconsistent with the nature of the action. Deterring arms shipments or imposing an increased difficulty in transporting arms shipments is successful interdiction.

Another question which has been asked is: "Is this action wise?" Our country has a nearly 2,000-mile long unfortified border with Mexico, whose southern border could well be engulfed in the conflagration emanating from the neighbors to its south in Central America. Two-thirds of our foreign trade in petroleum passes through the Caribbean to reach Europe. In the event of crisis, half of our supplies to our NATO allies must pass through the Caribbean. Hostile control of the region through client Marxist States could give them the power to choke the United States' economy and diminish our ability to assist our NATO allies. A secure, stable, and democratic Central America is critical to the security of the United States.

The Committee report rejects the notion that "floods of refugees may flock to the United States because of the Committee's recommendation". We submit that it will not necessarily be what the Committee has done but what the Sandinistas will do that brings refugees to the United States. Presently 10 per cent of the entire El Salvadoran population resides in the United States and Nicaragua's immediate neighbors must also feel some ambivalence toward the spillover of Nicaraguans. Approximately 6,000 Nicaraguans are presently living in exile in Costa Rica. In Honduras the flow of refugees from Nicaragua continues to rise. Last year some 15,000 Miskito Indians fled to Honduras rather than accept forced relocation by the Nicaraguan government. Additionally, there are approximately 20 to 30 thousand Nicaraguans in refugee camps in Mexico at this very moment. The defection of Central American refugees has steadily increased in our border states of Texas, Arizona and California. This trend will continue and escalate unless there is a cessation of the hostilities in Central America.

During consideration of HR 2760, we took the position that it was not unreasonable to insist that the effective date of the operative provision of the bill hinges on the Sandinistas ending their arms training, command control, or logistical support for the Salvadoran insurgents. During consideration of the other major amendment, we did not think it unreasonable to request that Nicaragua cease the export of arms and revolution to other Central American countries prior to Committee action to unilaterally restrict U.S. conduct without regard to the Nicaraguan behavior in Central America. Adoption of either of the previously mentioned positions:

would have been beneficial in protecting any of our friends in Central America against Nicaraguan/Cuban backed insurgencies in their countries;

would not have deprived the United States of an important tool to thwart Cuban insurgencies in Central America;

would have provided an incentive for the Nicaraguan government to negotiate an end to the hostilities;

would have provided maximum flexibility for all parties involved and would not have provided a sanctuary for the Nicaraguan/Cuban based guerrillas who could then strike out with impunity against their neighbors.

The Sandinista Nicaraguan government marks the first foothold of Marxism on the mainland in our western hemisphere. At this point in time, with only a modicum of help from the United States, democracy can flourish in Central America, as demonstrated by the democratic nations of Costa Rica, Honduras, Belize, and by the positive steps already taken in El Salvador and Guatemala. Some of us, having had the opportunity to travel to Central America and talk to the leaders of these governments, can reflect firsthand their fears that if America does nothing and permits the Marxist and, more importantly, the Cuban-influenced government backed by Nicaragua to create havoc in El Salvador, that subversion will take place in their own countries next. When the Sandinistas betrayed the purpose of a revolution and turned to Cuba, the waning insurgent movements in El Salvador and Guatemala were revived. If these countries should fall to the left, it is probable that frail Honduras, with its indefensible borders, and Costa Rica, with no army of its own, would be next on the guerrilla hit list. We wonder what will be the thoughts and the concerns of the Hondurans and the Costa Ricans if we decided to prevent further aid to anti-Sandinista paramilitary groups. We have grave concerns that with the stakes so high and with the uncertainty of US resolve, the governments in Central America would be unwilling to work with us in the overt program to reduce the flow of external support to the Salvadoran guerrillas.

J. K. Robinson.
G. William Whitehurst.
C. W. Bill Young.
Bob Stump.
Bill Goodling.

ADDITIONAL DISSENTING VIEWS ON HR 2760 BY CONGRESSMAN C. W. BILL YOUNG

HR 2760 was reported out by the House Permanent Select Committee on Intelligence on May 3, 1983, by a partisan vote of 9 to 5. Its purpose is to prevent US support for paramilitary activities against the government of Nicaragua. Originally presented as a response to alleged US Government violations of the Boland amendment, that issue was soon bypassed by events. On April 12, 1983, Senator Goldwater, Chairman of the Select Committee on Intelligence, issued a statement making it clear that the Boland amendment had not been violated. The Boland amendment prevents the US from engaging in activities for the purpose of overthrowing the government of Nicaragua or intended to cause a war between Nicaragua and Honduras.

Despite the fact that the Boland amendment was not violated, newspaper stories claiming such violation were the impetus for the development of HR

2760. The bill which would prevent American support for paramilitary operations in Nicaragua fails to address the major problem in Central America — Nicaraguan involvement in the paramilitary activities against its neighbors. This Nicaraguan involvement is part of the Cuban Government's program to support insurgencies throughout Central America aimed at overthrowing the governments in that area. The purposes of the United States are: to convince the government of Nicaragua to cease supplying assistance to insurgencies in the neighboring countries; and to keep the promises they made to the Organization of American States that there would be free elections and a pluralistic society in Nicaragua. The insurgency in Nicaragua aids only the first American purpose. It helps create a situation where the Nicaraguan government is compelled to recognize that it is not immune from retaliation when it supports insurgencies in the neighboring States. At the same time the insurgency is a means of convincing the Nicaraguan regime that it is necessary for it to come to the bargaining table to settle the disputes in Central America peacefully.

US support to some of those fighting in Nicaragua has had the desired effect of interfering with the Nicaraguan ability to supply arms to the insurgents fighting against its neighbors. It has also encouraged other groups within Nicaragua to take up arms against the Sandinista dictatorship. None of the groups, however, those supported by the United States and those who have taken up arms independently, are strong enough to overthrow the Nicaraguan government. But, the combination of forces has forced the Nicaraguan government to "look inward" and has reduced its ability to provide supplies to be used in violence against its neighbors. That, of course, is what interdiction means — preventing the flow of supplies. Those who try to quantify interdiction based on counting captured arms simply do not understand the term. What they are saying is like asking a man who takes his vitamins everyday, how many colds he prevented last year.

All of the groups fighting in Nicaragua have had the experience of getting substantial support from the local populace. This is true on the east coast where two separate groups of Miskito Indians are fighting against the Sandinista regime; in the northern and central areas of the country where the FDN is fighting and in the south where Pastora's ARDE group is fighting. The only area of Nicaragua untouched by the insurgencies has been the west coast, particularly the area around Managua. Both the insurgents and newsmen who have been in Nicaragua with insurgent forces report the widespread support for those forces in the local villages, and the large numbers of people volunteering to serve in the insurgent forces. A withdrawal of American support to those fighters who receive it would result not only in their demoralization, but in the demoralization of other groups fighting the Sandinista dictatorship. The net result of that would be the severe persecution of those peasants and villagers who have provided support to the insurgent groups by the dictatorship. The persecution will result in either a blood bath or large scale exodus of refugees or both. Large numbers of Central American refugees from communism would further destabilize that area. There would also be substantial numbers of refugees trying to enter the United States.

The arguments made by the majority in the section of the report entitled, "Committee Judgments" are neither logical nor are they consistent with the information that has been provided to the Committee by the intelligence community. On the three questions asked: (1) Is the program consistent with the law under the direction of the Congress? (2) Is the program a wise one? (3) Is the program successful? The answers to all three are, yes.

The argument is made in regard to question (1), that since the FY 83

Intelligence Authorization Conference Report states that the funds may be used only for the purpose of interdiction of arms, therefore, the US government is in violation of the law, this is simply incorrect. As pointed out above, interdiction of arms does not mean merely capturing arms, it means interfering with the ability of the government of Nicaragua to send the arms to the terrorists and insurgents in the neighboring countries. This, in fact, is what has been happening. Therefore, the answer to question (3) is also, yes, since the program has successfully interfered with the ability of the Nicaraguan government to provide supplies and logistics to insurgent groups in neighboring countries.

In regard to question (2) the majority answers that the program is not wise because it has hardened Sandinista attitudes. In fact, this has not happened. The persecutions inflicted by the Sandinista dictatorships on the Miskito Indians and the Catholic clergy as well as their suppression of freedom of press, religion and speech began long before this program was put into effect. The Sandinistas have not increased their violations of human rights, they have simply continued their program of suppressing the people of Nicaragua and violating their promises to the Organization of American States.

The majority also quotes Eden Pastora as saying that this program helps keep the Sandinistas in power. Pastora did believe that at one time when there were hit-and-run raids by the FDN. He no longer believes it. The insurgent forces are now operating deep inside Nicaragua. The political leadership of Pastora's group, ARDE, has made public statements indicating that they wish to co-operate with the FDN forces. In an interview over Panama City Radio Continente broadcast on April 19, 1983, Alphonso Robelo, the leader of Pastora's Nicaraguan Democratic Revolutionary Alliance (ARDE), and a former member of the Sandinista government Junta was asked about the FDN. He answered.

> "Yesterday I had a magnificent opportunity to fly from San Jose to Mexico with Newsweek reporter, James Le Moyne. He had been in Nicaragua with the FDN. He lived and shared with them for a period of seven days. He is a very serious objective man, a graduate of Harvard University, etc. He said that among the forces with which he coexisted some 400 men there were 12 former national guardsmen or 3 per cent of the FDN combatants that he saw. I honestly believe that the FDN includes a minority of the people formerly connected with the National Guard. The overwhelming majority are peasants and small farmers who have seen how Nicaragua is being enslaved and they have either gone to Honduras or have risen in arms in Nicaragua. They are the ones fighting."

In answer to as whether there is co-operation between ARDE and FDN, Robelo answered,

> "The FDN, the organization that has infiltrated all the troops into Nicaragua, has a new political directorate which includes six civilians and a former military man. As leader member of the ARDE Revolutionary Directorate, I have already held talks and contacts with the civilians. They have been personal and private contacts, but a line of communication already exists; it must be gradually developed."

On April 26, Panama City Circuito RPC television broadcast an interview with Adolpho Calero, a director of the FDN. Calero stated in answer to a question about Eden Pastora's group, "Commander Cero, my friend Pastora, leads the Democratic Revolutionary Alliance, ARDE, we are not yet coordinated, but we have the same goal. I hope that we will reach an understanding very soon." While ARDE and FDN are clearly of different political tendencies, both support a democratic solution in Nicaragua as do a number of the other, smaller, fighting groups. While none of them, or all of them together, would be strong enough to overthrow the Sandinista government, they are capable of creating enough problems for that government to force it to negotiate with its neighbors, perhaps even to cease repressing its own people. The fact that the forces fighting against the Sandinista régime are not capable of overthrowing it was recognized even by Ortega of the Sandinista National Directorate. In a broadcast over Managua Radio on March 21, 1983, he said, that the anti-Sandinista forces "fighting in the interior of Nicaragua . . . do not have regular combat weapons, such as, artillery, tanks and armored personnel carriers. They only have a few infantry weapons . . . ." He went on to say, "this prevents them from carrying out even medium-scale military actions on a regular battlefield. They are practically restricted to fighting an irregular mountain war."

If the insurgents should force the Sandinista government to negotiate on free elections and the democratic rights of the people of Nicaragua, this would be consistent with one of the suggestions of the Linowitz Commission in its pamphlet, "The Americas at a Crossroads", published in April 1983, which said, "we favor dialogue between the governments of El Salvador, Nicaragua and Guatemala and the respective opposition movements in those countries".

An end to all the fighting in Central America, not only in Nicaragua, is the goal of all Members of this Committee. That goal could best be achieved not by simply ending U.S. support to those fighting in Nicaragua but in forcing the Nicaraguans to the conference table to solve the problems of the region. In April 1982, the U.S. Government proposed an eight-point program to Nicaragua for solving the problems of the region. Nicaragua ignored it. Those points were:

> 1. The cessation of Nicaraguan support for insurgencies in neighboring countries. In addition to an end to arms trafficking, training, and other support for Salvadoran guerrillas, this would include the closing of the FMLN command and control center in Managua.
>
> 2. A U.S. statement pleading to enforce our laws forbidding the training activities of exile groups that might attempt to overthrow the Nicaraguan government.
>
> 3. A joint Nicaraguan-U.S. statement pledging non-interference in each other's affairs or in the affairs of others in the region, and pledging adherence to the OAS and UN Charters and to the Rio Treaty.
>
> 4. A regional ban on the importation of heavy offensive weapons. Foreign military advisors would be reduced within the region, and military and security forces would be reduced.
>
> 5. International verification of the arms limitation proposal. This would include visits to Nicaraguan airports, military installations, ports and borders by representatives of the OAS or other regional organizations.
>
> 6. The resumption of U.S. aid to Nicaragua, and additional trade concessions such as the Caribbean Basin Initiative.
>
> 7. The exchange of artists, musicians, baseball teams and other cultural groups in order to improve the climate of bilateral relations. The opening of a bi-national center in Nicaragua, and the provision of scholarships for Nicaraguan students who wish to study in the U.S.
>
> 8. The reaffirmation by the Nicaraguan government of its previously stated commitments to pluralism, free elections, and a mixed economy.

During the House Permanent Select Committee on Intelligence markup on HR 2760, this Congressman (C. W. Bill Young), suggested an amendment that would have resulted in the cessation of hostilities in Nicaragua after

> "a verifiable agreement is reached that the government of Nicaragua ceases activities to provide arms, training, command and control facilities or logistical support to military or paramilitary operations in or against any government in Central America"

This amendment was defeated by a party-line vote. I intend to introduce it again during the floor debate on HR 2760. It is an equitable and fair solution to the problem. The ending of all violence in the area is what all of us want. Simply ending the violence in Nicaragua while allowing it to continue in El Salvador will encourage the Nicaraguans to increase the violence against their neighbors. Any other solution will only result in Nicaragua being encouraged to continue its program to destabilize Central America. The resultant bloodshed and refugee problems must be avoided. The pattern of Cuban support to insurgencies is consistent throughout Latin America. The Cubans insist that the small terrorist groups, many of them having received Cuban training in the past, must unite before they can receive Cuban support to engage in a full-scale insurgency. This pattern was successful in Nicaragua and is now in use in El Salvador and Guatemala and most recently in Honduras.

Havana Radio's international service in Spanish of February 12, 1982, commenting on the alliance of the Guatemalan guerrilla groups, said,

> "the history of our Americas' revolutionary struggle shows that unity is a key factor for victory. Unity, as has been justifiably said, does not merely mean the joining of forces, but also the multiplication of forces in the noble goal of the national liberation of our fatherlands."

The commentary goes on to say the case of El Salvador "also confirms the importance of the people's unity in the just and necessary struggle".

The President of Honduras, President Suazo, in a speech on April 2, 1983, over Tegucigalpa Voz de Honduras Network said,

> "if we consider the fact that if the Salvadoran guerrillas win, Nicaragua will be free to give logistical support to subversives here, then the Salvadoran guerrillas might strengthen this country's subversives, perhaps with the support of the USSR and Cuba. If Central America falls, Mexico will follow, and then the problem belongs to the United States. We have maintained, and we will continue to maintain, close relations with the United States, because we believe that it defends democracy, not only in America, but in other countries as well."

This public statement by President Suazo is similar to the private statements that he and other Honduran and Salvadoran government leaders made to a delegation of Members of the House Permanent Select Committee on Intelligence which visited their countries in April 1983. The countries of the region fear Cuban and Nicaraguan supported insurgencies and hope that the United States will provide them with the support needed to resist these threats.

The leaders of the government of Nicaragua have made no secret of their intentions. Ernesto Cardenal, now the Minister of Culture in Nicaragua, said in a broadcast over Havana Radio July 30, 1978, "a single revolution is on the way in America, and Cuba is at the vanguard". Cuban, and now Nicaraguan, support is a major factor in Central American insurgency. The flow of arms, a secure command and control center, and a privileged sanctuary are all needed by the insurgents. Nicaragua provides these things on behalf of Cuba and the Soviet Union.

Before Cuban support was provided to the insurgency in Nicaragua that created the Sandinistic government that exists today, the Cubans insisted that the various factions of the Sandinista movement must be united into one insurgency. When this was accomplished, they received the support needed to overthrow the Somoza regime. Shortly after their victory, the same pattern was followed in El Salvador. On December 16, 1979, the small terrorist groups in El Salvador united with the El Salvador Communist Party at a meeting in Havana, Cuba, to organize the Farabundo Marti Liberation Front. In a letter addressed to Comrade Fidel, the leader of the various groups that came together in Havana wrote,

> "Today we can tell you, Fidel, that thanks to your help, to the help of your party comrades, and to the inspired example of the revolutionary people of Cuba, we have undertaken a transcendental step by signing an agreement with very solid bases upon which we begin building the coordination and unity of our organizations."

Guerrilla documents captured in El Salvador show that regular reports on their progress are made to Manuel Pineiro, the head of the American Department of the Central Committee of the Communist Party of Cuba. Pineiro, former head of the Cuban intelligence service, the DGI, runs the American Department, which is the covert action arm of the Cuban apparatus and is responsible for support to insurgencies throughout Latin America. The role of the Nicaraguan regime in this activity can be seen in the documents captured in El Salvador. On January 26, 1981, then-US Ambassador to El Salvador, Robert E. White, wrote to then-President Duarte and provided him with an analysis of the captured documents. Ambassador White's letter and analysis follow:

[Ambassador White's letter:]

Embassy of the United States of America,
San Salvador, January 26, 1981.

His Excellency Ing. Napoleón Duarte,
Presidente de la Junta
Revolucionatia Gobierno,
San Salvador

Dear Mr. President: Please find attached a summary of the documents we discussed at my house today, January 26. The summary deals with the question of foreign involvement in supply of the insurgency.

I hope this summary is useful to you. With warm regards.

Sincerely,

Robert E. WHITE,
Ambassador.

Attachment

SUMMARY

"Esmeralda's" role

DRU logistics representative in Nicaragua (code name "Vladimir"), reporting to DRU, November 1, indicated that some 300 to 400 tons of military supplies would have arrived in "Esmeralda" (Cuba) by the following week and would soon be arriving in "Lagos" (Nicaragua). This was in addition to the more than 109 tons of military supplies that "Vladimir" said had already reached "Lagos". In a separate document dated September 26, 1980, reporting on a DRU Joint General Staff (EMGC) meeting, an ERP representative (code name "Jonas") indicated that there were 130 tons of military supplies stored in "Lagos" (Nicaragua) — or a sixth part of the materiel that had been committed by others to the DRU.

In addition to being logistics transit point and font of political advice, "Esmeralda" helped plan guerrilla military offensive. Undated, unsigned report of trip to "M." (clearly a Managua visit in mid-July 1980 in view of context) indicates that Salvadoran insurgent Joint General Staff (EMGC) delegation would depart soon for "la H." (Havana) to have "specialist" put finishing touches on plans for guerrilla offensive. In separate September 26 document, ERP representative "Jonas" indicates that "Comrade Ramon" was unable to give report to EMGC on progress of planning offensive since "written materials" had been left in "Managua and Havana". (Comment: This is rare occasion in which plain language place names appear on these documents.) The same report indicates that EMGC itself was located for some time in "Cuba".

Role of FSLN

Literally dozens of references in captured documents indicate definitely that code name "Lagos" — transit point of arms for Salvadoran insurgents — is, in fact, Nicaragua. The documents point to the initially wavering, but later heavily involved participation of the FSLN in the supply effort by "C. de Frent." (comrades of the Frente) without specifying names.

FSLN role in early part of 1980, according to documents, was largely facilitative. June 17 DRU report from Managua indicated that one "Gustavo" of FSLN (may be identical with "G." identified in another document as assistant to "Comrade Bayardo") arranged contact for insurgents with Panamanian arms traffickers in March. As late as mid-July, ERP visitor indicates that FSLN appeared to be reluctant to forward arms or to allow arms pick-ups from Nicaraguan coast. On July 23, 1980, however, "Comrade Bayardo" (presumably FSLN directorate member Bayardo Arce) told visiting Salvadoran insurgent Joint General Staff (EMGC) delegation that urgent guerrilla ammunition request had been approved, meeting had been set up with FSLN "military commission", and that, if insurgents would be receiving help through Nicaragua, FSLN had given thought to possible "triangular" arrangement in which arms from "socialist" countries would be absorbed by Sandinista army (EPS). Nicaragua in turn would pass its Western-manufactured arms to the Salvadoran guerrillas. (Comment: Note that at time of this meeting Fidel Castro was in Nicaragua.)

By the beginning of November 1980 (after the FSLN renewed shipments following the one-month suspension), the Nicaraguans began pushing more supplies on the insurgents than the latter could handle. Code name "Rodrigo", reporting to the DRU in early November 1980, indicated that Nicaraguan deliveries were exceeding DRU reception capabilities and that Nicaraguans were sending dangerously overloaded boats. (Judging from documents, large-scale deliveries also began to move in November from Nicaragua by trailer-truck through Honduras and by air.) "Rodrigo" travelled to "Lagos" to ask for better FSLN coordination and supervision of shipments. In the meantime, DRU logistics representative in Managua, "Vladimir", pointed out to Salvadoran insurgent leadership, November 1, that it was necessary to enhance DRU capabilities to receive and distribute deliveries since not only does the FSLN regard the arms as a "hot potato" but also,

> “. . . all the countries of the socialist camp have dug deep to help us with all the requests we had made and some doubled the promised help. This is the first Latin American revolution which they have unconditionally moved to help before it (the revolution) has taken power.”

Vladimir urged the DRU — the “last link” in the supply “chain” — to step up its absorption pace.

Source of supply

One of captured documents (minutes of DRU meeting of August 30, 1980, prepared by ERP representative, code name “Ana Maria”) provides listing of arms and non-weapon assistance commitments provided by Vietnam and other communist nations (Czechoslovakia, Bulgaria, GDR, Hungary and Ethiopia) during June-July 1980 overseas trip of Salvadoran Communist Party (PCS) Chief Shafik Handal. This separate, independent, account confirms Shafik's own report of communist assistance commitments. Account of DRU meeting indicates that Vietnamese arms (and possibly other communist assistance) were supposed to arrive in “Esmeralda” on September 5.

What is “Esmeralda”?

Previous analyses have speculated that references to “Esmeralda” in earlier captured documents may have related to an Ecuadorean port. New documents, however, suggest that “Esmeralda”, in fact, is code name for Cuba: (*a*) report to DRU sent by “Marcial” (code name for Salvadoran FPL leader Cayetano Carpio), “Jonas” and “Eduardo”, August 31, from “Lagos” (code name for Nicaragua) indicates that FARN organization, at that time defecting from DRU, was asking “management of Esmeralda” to convoke meeting to discuss its differences with rest of DRU. Marcial and company indicate that they also would inform “Esmeralda” directly of a problem with FARN. A “Comrade Mart.” (presumably a representative of Cuban CP Central Committee Americas Department) indicated to “Marcial” that “Chief of this department in Esmeralda” wanted to call September 4 meeting to discuss problem of split. Subsequent October 8 letter from Marcial openly addressed to Manuel Pineiro, Chief of Americas Department of Cuban CP Central Committee, thanks Cuban for his advice and suggestions following FARN defection; (*b*) Minutes of DRU meeting of September 24, 1980, indicate that “Marcial”, during visit to “Lagos” (Nicaragua) in previous months, met with “Comrades of Esmeralda”. “Esmeraldan” comrades visiting Nicaragua are listed as follows: “C.M. and Abr” (Letters “b” and “r” are lower case — we believe this refers to Comrade Manuel Pineiro and Abren, respectively Director and Central American Department Chief of Americas Department of Cuban Central Committee), “C. Br.” (we presume this refers to a Cuban functionary visiting Nicaragua in company with Castro), and “C en P.” (word “en” is in small case. This probably refers to Comandante en Jefe Fidel Castro — the Cuban leader's formal title).

On March 4, 1982, the House Permanent Select Committee on Intelligence received an extensive briefing concerning the situation in El Salvador. Subsequent to the briefing, Committee Chairman Edward P. Boland made the following statement to the press:

> “The Committee has received a briefing concerning the situation in El Salvador, with particular emphasis on the question of foreign support for the insurgency. The insurgents are well trained, well equipped with modern

> weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support. The intelligence supporting these judgments provided to the Committee is convincing.
>
> There is further persuasive evidence that the Sandinista government of Nicaragua is helping train insurgents and is transferring arms and financial support from and through Nicaragua to the insurgents. They are further providing the insurgents bases of operation in Nicaragua. Cuban involvement — especially in providing arms — is also evident.
>
> What this says is that, contrary to the repeated denials of Nicaraguan officials, that country is thoroughly involved in supporting the Salvadoran insurgency. That support is such as to greatly aid the insurgents in their struggle with government forces in El Salvador."

Chairman Boland's statement was very carefully written to make the facts clear concerning Cuban and Nicaraguan support to the Salvadoran insurgency and at the same time to protect the very sensitive sources that were then and are continuing to provide US intelligence with information on the Cuban and Nicaraguan role. That kind of careful handling of sensitive information has not always been true in the executive branch. In 1980, while this Committee was being told by CIA that all of the information concerning the shipment of arms from Cuba to Nicaragua was so sensitive that it could not be revealed publicly, executive branch officials were revealing the information to the Nicaraguan government. One of the documents captured in El Salvador consists of a report from one Salvadoran guerrilla leader to another dated September 30, 1980, concerning his conversations in Nicaragua with officials of the Nicaraguan government. He reported.

> "Last 27 September, a meeting with Gustavo was held in which he informed us of the front's (Sandinista National Liberation Front) decision to suspend shipments during a period of approximately one month. They brought up a security problem beginning with a meeting which they say they had with one James Cheek, a representative of the North American Department of State. They say that he manifested knowledge of shipments via land through Nicaragua; in small vehicles, and that we carried out attempts by sea. They raise the question of possible bad management of the information on the part of the personnel working on this and that they are going to carry out an investigation."

The congressional oversight provisions of the National Security Act of 1947 give the House Permanent Select Committee on Intelligence responsibility together with the executive branch to protect the sensitive source information that the US government receives. The minority members have given full support to the actions of the Chairman of the House Permanent Select Committee on Intelligence to ensure the protection of that information.

On August 22, 1982, Honduran authorities raided a Salvadoran insurgent safe house in Honduras. Among the Salvadoran guerrillas captured was Commander Alejandro Montenegro, an important official of the Salvadoran insurgency. A major campaign was undertaken by the Salvadoran insurgents and their supporters in neighboring countries to secure the release of Montenegro. In a broadcast over

. . . .

Liberation Forces, the largest of the guerrillan groups united in the Farabundo Marti Liberation Front. The announcement of her murder was broadcast on the night of April 6, 1983, by Managua radio. The revelation that one of the top leaders of the Salvadoran guerrillas was living in Managua created serious problems for the Nicaraguan government. On April 8, a press conference was called by Interior Minister Thomas Borge and the Chief of State Security Lenin Cerna. Borge announced that the Sandinista police and security organizations had been ordered to use all their resources to investigate the death of Ana Maria and that Lenin Cerna had been placed at the head of the investigations.

According to Borge the death of Ana Maria

> "could place Nicaragua in a difficult situation, because we would have to admit that a member of the FNLN Directorate resided in Managua, as is being said in all the media, in order to accuse Nicaragua of supporting the Salvadoran revolutionaries".

Borge accused the CIA of murdering Ana Maria and said, "I do not need to present specific proof. I do not need to say: 'Here is the murderer, because everyone knows who the murderer is'." The accusation that the CIA was the culprit in the murder was also made by the FNLN United Revolutionary Directorate in an April 7 broadcast over Managua's Radio Sandino which stated, "This treacherous crime committed by the sinister hands of the US Central Intelligence Agency, CIA, shows in a tangible way the desperation of imperialism which is attacking our peoples." The funeral services for Ana Maria were addressed by the leader of her faction of the Salvadoran insurgency, Cayetano Carpio. Carpio admitted that at the time of the murder he was at a far away place in Libya and he immediately rushed back to Managua for the funeral service. He said, "the Central American peoples struggle is one single struggle when we achieve victory we will be arm in arm and struggling for the total liberation of Central America".

On April 21, Managua radio released a statement of the Nicaraguan Ministry of the Interior in which they announced that they had solved the murder of Ana Maria. It was not the CIA that did it. According to the Nicaraguan secret police authorities, a group of Salvadorans had been arrested for the murder, and the mastermind of the crime was "a member of the central command of the People's Liberation Forces, FPL of El Salvador, where he held a top position very close to Companero Salvador Cayetano Carpio, Commander Marcial, top leader of that revolutionary organization." According to the Nicaraguans, as a result of the revelation that the real culprits were his close associates, Carpio committed suicide. However, there are those who believe that he was "suicided" as part of the internecine struggles of the Salvador insurgents. The deaths of Carpio and Ana Maria brought to public notice the fact that the entire leadership, the command and control structure, of the Salvadoran insurgency, is not in El Salvador but in Managua, Nicaragua that is, when leaders are not on visits to Libya. On April 25, 1983, five Members of the House Permanent Select Committee on Intelligence met in Managua with Borge and other leaders of the Sandinista régime who denied that the Salvador Command and Control headquarters was in Managua. This Member (Cong. Young) offered to take them to the site. They changed the subject.

The "unity" arrangements that were successful in Nicaragua and are currently being employed in El Salvador are also underway in Guatemala. On February 10, 1982, Havana radio announced that the guerrilla groups in Guatemala had united to form one "patriotic national revolutionary unity front of Guatemala". On February 11, 1982, a meeting was held in Havana with the participation of the diplomatic representatives of the communist countries and Latin American revolutionary movements. At that meeting the Guatemalan insurgents reaffirmed that they had united the various groups into one insurgency. At the meeting Oscar Gonzalez, speaking for the Salvador insurgents, said that the Central American revolution is a united one and that the victory of one country is a victory of all. He stated that Guatemala, El Salvador and Honduras would all have their hour of liberation and that the revolution in Nicaragua was the first flame in that process. The military attaché of the government of Vietnam pledged firm support for the Guatemalan struggle. For over a year the Guatemalan insurgents have engaged in armed clashes with the police and military and have engaged in numerous terrorist actions.

On April 8, 1983, Managua radio announced that the same kind of "unity" had been created in Honduras. According to Managua, "four Honduran political-military organizations announced the creation of the United Revolutionary Coordinating Board to go ahead with the struggle in Honduras". Communiqués of the Honduran insurgency have been broadcast over Radio Managua and have appeared in the Sandinista newspapers, *El Nuevo Diario* and *Barricada in Managua*. The April 21, 1983, issue of *Barricada* carried a Honduran insurgent announcement that, "the democratic paths of the people's struggle having been exhausted, we declare a people's revolutionary war on the military-pseudo liberal dictatorship, its puppet army and North American imperialism". Honduras, like El Salvador, has a democratically elected government. The insurgencies in each case supported by the Nicaraguans are intended to overthrow those democratic governments.

Even in peaceful and democratic Costa Rica, the police have confiscated weapons and explosives in the homes of Communist Party functionaries and members of the small terrorist groups supported by the Cubans and Nicaraguans. One example of this was the announcement which appeared in the San Jose newspaper, *La Nacion* of March 28, 1983, that the government had confiscated M-14 and M-1 rifles, ammunition and grenade-launchers in the possession of the brother of a communist parliamentarian. The newspaper stated,

> "According to reports these weapons only represent the small part of the arsenal which the rural guard has been unable to confiscate despite its meritorious and patriotic work. While Nicaragua is preparing aggression against our country, its local accomplices are trying to destabilize the Government as part of an overall plan against Costa Rica that was launched by international communism several months ago."

The President of Costa Rica, Luis Alberto Monge, was quoted on San Jose radio on April 24, 1983, as referring to the "repeated aggressions against the nation's sovereignty by the Nicaraguans". And he said, "I feel that the constant violations of Costa Rican territory by the Sandinists are unlawful, harmful and therefore unacceptable". The international press reported on May 3 that President Monge had asked for an OAS peacekeeping force on the Costa Rican/Nicaraguan border to prevent further Nicaraguan incursions against this country.

HR 2760 will do nothing to stop this Cuban/Nicaraguan assault on Central America. I oppose this bill in its present form and will work to amend or defeat it.

C. W. Bill Young.

Attachment 2

LETTER FROM US SENATOR BARRY GOLDWATER, CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE, TO MR. GILBERT GUDE, DIRECTOR, CONGRESSIONAL RESEARCH SERVICE, THE LIBRARY OF CONGRESS, JUNE 27, 1983 (WITH ATTACHMENT)

June 27, 1983

Dear Gil:

On June 23, 1983, the Supreme Court made a decision with important consequences for the Congress and the Executive Branch. In case No. 80-1832, *INS* v. *Chadra*, the Supreme Court held, among other things, that "the Congressional veto provision in §244 /*c*/ [2] is unconstitutional".

Recently the Senate Select Committee on Intelligence reported the Intelligence Authorization Act of FY 1984 [S 1230]. The classified annex of this bill contained language which described the terms under which funds authorized for use in the current covert paramilitary action program directed at the Sandinista government in Nicaragua would be released. A sanitized version of this language is enclosed for your information.

It is my understanding that the Congressional Research Service is currently in the process of studying the Supreme Court decision. On this basis, I would be interested in knowing whether you feel that our report language as drafted would be affected by the Supreme Court decision. In responding to this question, your staff should know that our Committee had intended that the language would be modified in conference with the House Committee to allow the House the same simple majority vote referred to in Section 2 of our language.

Gil, this is a matter of high interest to me. I would appreciate having some response from you by July 16, 1983. If you have any difficulties with this request, or problems with this deadline, please feel free to let me know. Or call my Staff Director, Rob Simmons, at 224-1710. Thank you so much for your consideration of this matter.

Sincerely,

Barry GOLDWATER,
Chairman.

Enclosure

INTELLIGENCE AUTHORIZATION ACT OF FY 1984

After careful consideration, the Committee decided to fund the current covert paramilitary action program directed at the Sandinista government through September 30, 1983. All funds requested for FY 1984 to continue the currently approved covert paramilitary program is deleted from the Central American Covert Action Program. The Committee has transferred these funds to the Contingency Reserve for the purpose of supporting a re-directed, re-defined paramilitary covert action program based upon formulation of a new Presidential Finding.

None of the funds authorized or available to the Central Intelligence Agency in Fiscal Year 1984 or beyond, may be used for the purpose of any covert paramilitary operations in Central America, or support thereto unless:

> 1. The Committee has been informed, in advance, of the specific goals, and risks associated with the proposed covert paramilitary action; and
> 2. The Committee has specifically approved the covert paramilitary action by majority vote, confirmed in writing to the DCI by the Chairman and the Vice Chairman.

Attachment 3

DEBATE IN THE US HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 1ST SESSION, JULY 27, 1983 (129 *CONGRESSIONAL RECORD* H5720-5762)

[Not reproduced]

Attachment 4

DEBATE IN THE US HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 1ST SESSION, JULY 28, 1983 (129 *CONGRESSIONAL RECORD* H5819-5882)

[Not reproduced]

Attachment 5

DEBATE IN THE US HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 1ST SESSION, OCTOBER 20, 1983 (129 *CONGRESSIONAL RECORD* H8389-8433)

[Not reproduced]

Attachment 6

DEBATE IN THE US SENATE, 98TH CONGRESS, 2ND SESSION, APRIL 4, 1984 (130 *CONGRESSIONAL RECORD* S3742-3796)

[Not reproduced]

Attachment 7

DEBATE IN THE US SENATE, 98TH CONGRESS, 2ND SESSION, APRIL 5, 1984 (130 *CONGRESSIONAL RECORD* S3848-3898)

[Not reproduced]

Attachment 8

DEBATE IN THE US SENATE, 98TH CONGRESS, 2ND SESSION, APRIL 10, 1984 (130 *CONGRESSIONAL RECORD* S4192-4205)

[Not reproduced]

Attachment 9

LETTER FROM US SENATOR BARRY GOLDWATER, CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE, TO US DIRECTOR OF CENTRAL INTELLIGENCE WILLIAM J. CASEY, APRIL 9, 1984, *WASHINGTON POST*, APRIL 11, 1984

The text of a letter, dated April 9 and made available yesterday, from Sen. Barry Goldwater (R-Ariz.), chairman of the Senate Intelligence Committee, to CIA Director William J. Casey:

Dear Bill:

All this past weekend, I've been trying to figure out how I can most easily tell you my feelings about the discovery of the President having approved mining some of the harbors of Central America.

It gets down to one, little, simple phrase: I am pissed off!

I understand that you had briefed the House on this matter. I've heard that. Now, during the important debate we had last week and the week before, on whether we would increase funds for the Nicaragua program, we were doing all right until a member of the committee charged that the President had approved the mining. I strongly denied that because I had never heard of it. I found out the next day that the CIA had, with the written approval of the President, engaged in such mining, and the approval came in February!

Bill, this is no way to run a railroad, and I find myself in a hell of a quandary. I am forced to apologize to the members of the Intelligence Committee because I did not know the facts on this. At the same time, my counterpart in the House did know.

The President has asked us to back his foreign policy. Bill, how can we back his foreign policy when we don't know what the hell he is doing? Lebanon, yes, we all knew that he sent troops over there. But mine the harbors in Nicaragua? This is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it.

My simple guess is that the House is going to defeat this supplemental and we will not be in any position to put up much of an argument after we were not given the information we were entitled to receive; particularly, if my memory serves me correctly, when you briefed us on Central America just a couple of weeks ago. And the order was signed before that.

I don't like this. I don't like it one bit from the President or from you. I don't think we need a lot of lengthy explanations. The deed has been done and, in the future, if anything like this happens, I'm going to raise one hell of a lot of fuss about it in public.

Sincerely,

BARRY GOLDWATER,
Chairman.

Attachment 10

DEBATE IN THE U.S. HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 2ND SESSION, APRIL 12, 1984 (130 CONGRESSIONAL RECORD H2878-2940)

[Not reproduced]

Attachment 11

April 15, 1984

STATEMENT BY SENATOR DANIEL PATRICK MOYNIHAN (D.-N.Y.) ON HIS RESIGNATION AS VICE CHAIRMAN OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

I have announced today that I will resign as Vice Chairman of the Senate Select Committee on Intelligence.

This appears to me the most emphatic way I can express my view that the Senate Committee was not properly briefed on the mining of Nicaraguan harbors with American mines from an American ship under American command.

An Employee Bulletin of the Central Intelligence Agency issued April 12 states that the House Committee was first briefed on 31 January, but the Senate Committee not until 6 March. Even then, as Senator Goldwater has stated, nothing occurred which could be called a briefing. The reference is to a single sentence in a two-hour Committee meeting, and a singularly obscure sentence at that.

This sentence was substantially repeated in a meeting on March 13.

In no event was the briefing "full", "current", or "prior" as required by the Intelligence Oversight Act of 1980 — a measure I helped write.

If this action was important enough for the President to have approved it in February, it was important enough for the Committee to have been informed in February.

In the public hearing on the confirmation of John F. McMahon as Deputy Director of Central Intelligence I remarked that with respect to intelligence matters the:

> "oversight function necessarily involves a trust relationship between the committee and the community because we cannot know what we are not told, and therefore must trust the leaders of the community to inform us".

I had thought this relationship of trust was securely in place. Certainly the career service gave every such indication. Even so, something went wrong, and the seriousness of this must be expressed.

I will submit my resignation when Senator Goldwater returns from the Far East.

Attachment 12

DEBATE IN THE US HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 2ND SESSION, MAY 24, 1984 (130 CONGRESSIONAL RECORD H4796-4806)

[Not reproduced]

Attachment 13

DEBATE IN THE US SENATE, 98TH CONGRESS, 2ND SESSION, JUNE 18, 1984 (130 CONGRESSIONAL RECORD S7499-7517)

[Not reproduced]

Attachment 14

DEBATE IN THE US HOUSE OF REPRESENTATIVES, 98TH CONGRESS, 2ND SESSION, AUGUST 2, 1984 (130 *CONGRESSIONAL RECORD* H8264-8284)

[Not reproduced]

Attachment 15

DEBATE IN THE US SENATE, 98TH CONGRESS, 2ND SESSION, OCTOBER 3, 1984 (130 *CONGRESSIONAL RECORD* S12857-12879)

[Not reproduced]

Attachment 16

TRANSCRIPT OF REMARKS OF SENATOR DANIEL PATRICK MOYNIHAN, VICE CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE, ON ABC NEWS "THIS WEEK WITH DAVID BRINKLEY", OCTOBER 28, 1984

[Not reproduced]

Attachment 17

REPORT OF THE US HOUSE OF REPRESENTATIVES PERMANENT SELECT COMMITTEE ON INTELLIGENCE, 98TH CONGRESS, 2ND SESSION, REPT. NO. 98-1196 (JANUARY 2, 1985)

[Not reproduced]

Annex F

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Annex G

Psychological Operations in Guerrilla Warfare, a Manual Produced by the US Central Intelligence Agency

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Annex H

The Freedom Fighter's Manual of Sabotage Techniques, a Booklet Produced by the US Central Intelligence Agency

[Not reproduced]

Annex I

Reports of Attacks by the US-Sponsored Mercenaries on the Civilian Population of Nicaragua

Attachments

1. Annual Human Rights Report, 1984, of the Council on Hemispheric Affairs, January 1985. *[Not reproduced.]*
2. "Attacks by the Nicaraguan '*Contras*' on the Civilian Population of Nicaragua", Report of a Fact-Finding Mission, September 1984-January 1985 ("Brody Report"), March 1985. [*See pp. 299-364*, infra.]
3. Report of Donald T. Fox, Esq. and Professor Michael J. Glennon to the International Human Rights Law Group and the Washington Office on Latin America concerning Abuses against Civilians by Counterrevolutionaries Operating in Nicaragua, April 1985. [*See pp. 365-369*, infra.]

Annex J

Factual Data Pertaining to the Mining of Nicaragua's Ports

Attachments

1. "The Mining of Nicaragua's Ports", Central American Historical Institute, Vol. 3, No. 13, 5 April 1984.
2. Reports of Damage to Vessels in Nicaragua's Ports, *Lloyd's List and Shipping Gazette*, March 1984.

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Annex K

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA, 21 JANUARY 1956, AND RELATED MATERIALS

Attachments

1. Treaty of Friendship, Commerce and Navigation between the United States and Nicaragua, signed 21 January 1956, 367 *UNTS* 3.
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Annex I

LIST OF NICARAGUANS KILLED BY UNITED STATES MILITARY AND PARAMILITARY ACTIVITIES, 1981-1984

[Not reproduced]

ATTACKS BY THE NICARAGUAN "CONTRAS" ON THE CIVILIAN POPULATION OF NICARAGUA

REPORT OF A FACT-FINDING MISSION, SEPTEMBER 1984-JANUARY 1985

March 1985

INTRODUCTION

For the past three years, counterrevolutionary armed forces, commonly known as *contras*, have carried on a guerrilla war in Nicaragua. Although unable to capture or hold any sizeable town or populated area, the *contras* have inflicted numerous casualties and caused substantial damage to the Nicaraguan economy. That much has been widely reported. Recently, however, accounts have surfaced with increasing regularity, and from a variety of sources, that the *contras* are directing their attacks against civilian targets — such as workers in the northern provinces attempting to harvest the coffee crop — and that these attacks have resulted in assassination, torture, rape, kidnapping and mutilation of civilians.

To probe the veracity of these reports, a fact-finding team, led by an American lawyer who volunteered his time, spent from September 1984 to January 1985 in Nicaragua. The team set out to locate victims and other eyewitnesses to *contra* attacks throughout northern and north-central Nicaragua — including Nicaraguan peasants and workers, as well as US priests, nuns and lay pastoral workers — interview them, and obtain sworn affidavits recounting in their own words what they had seen or experienced. This report contains the results of this investigation.

The report is divided into 28 chapters, each one devoted to one incident, or to a series of incidents in the same vicinity or of the same nature. Each incident included in the report is substantiated by the eyewitness testimony of at least one, and usually several, affiants, and specific citations to the sources of each account are provided. The sworn affidavits themselves — 145 in all — are contained in a separate Appendix[1].

The investigation was structured to be as objective and professional as possible. A rigorous standard was applied: the report would include only those incidents and events that could be substantiated by reliable evidence of a kind that would be legally sufficient in a court of law. Thus, all of the facts presented here are based on direct eyewitness testimony. Each witness was reminded of the importance of relating only what he or she personally saw or experienced, and not what he had heard or read in the newspapers. (Parish priests, however, were allowed to testify generally about incidents they knew of in their parishes.) Each witness was challenged by the interviewer with questions designed to confirm the witness' *personal* knowledge of the events he related ("Did you actually see that?" "What color were their uniforms?"). In most cases, the account of one witness was corroborated by the similar accounts of as many as 15 others. Where the credibility of a witness was considered doubtful for any reason, the statement was excluded from the report.

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[1] Not submitted. [*Note by the Registry*.]

Each witness' statement has been signed under oath. In some cases, the witness' testimony was initially tape-recorded and a transcription then typed and presented to the witness for signature at a second meeting. In other cases, the interviewer wrote down the testimony by hand, and presented the handwritten transcript for signature. In each case, the affidavit was carefully read by (or to) the affiant, who made any corrections needed before swearing to its truth and signing it. In some instances the witness signed the affidavit despite his fear that it would expose him to the danger of retaliation by the *contras*.

Each affidavit completely identifies the affiant by name (both patronymic and matronymic surnames), age and location, and in most cases also by place of birth and complete mother's and father's names. This ensures that the authenticity of the statement can be subject to further verification.

The interviews were conducted during several trips to the areas of Nicaragua where the *contra* attacks have been heaviest. In the northern provinces of Esteli, Madriz and Nueva Segovia, the investigating team visited several individual towns and farms that had been attacked. In the provinces of Matagalpa and Jinotega, the ongoing attacks made it impossible to travel outside the provincial capitals, so refugees and others from the outlying areas who could be found in the capitals were interviewed. In the northern Atlantic Coast region, for the same reason, the interviews were conducted with people in the provincial capital of Puerto Cabezas, with the exception of those conducted during a visit to the Miskito resettlement town of Sumubila. Still other witnesses were brought to Managua by their parish priests and were interviewed there, when it was impossible to visit the site of the incident.

After arriving in an area in which *contra* attacks were reported to have occurred, the investigators located survivors and witnesses through discussions with local religious people, local officials, health workers and chance acquaintances. The Nicaraguan government was helpful in issuing travel permits, providing transportation to remote or embattled areas where necessary and, on occasion, indicating where witnesses might be found. The Nicaraguan government did not, however, interfere in any way in the selection of witnesses or the inteview process. All witnesses were selected solely by the investigative team (with the exception of one instance, noted in the text); all interviews were conducted *outside* the presence of government or party officials.

This report is not intended to be exhaustive — because attacks on the civilian population of Nicaragua appear to occur frequently, this report by necessity can only cover a small sampling of them. Even in the localities to which an entire chapter is devoted, the investigators could not attempt to inquire into every incident of which they were made aware, let alone interview every witness. Those incidents that have been investigated, however, reveal a distinct pattern, indicating that *contra* activities often include:

attacks on purely civilian targets resulting in the killing of unarmed men, women, children and the elderly;

premeditated acts of brutality including rape, beatings, mutilation and torture;

individual and mass kidnapping of civilians — particularly in the northern Atlantic Coast region — for the purpose of forced recruitment into the *contra* forces and the creation of a hostage refugee population in Honduras;

assaults on economic and social targets such as farms, cooperatives, food storage facilities and health centers, including a particular effort to disrupt the coffee harvests through attacks on coffee cooperatives and on vehicles carrying volunteer coffee harvesters;

intimidation of civilians who participate or cooperate in government or community programs such as distribution of subsidized food products, education and the local self-defense militias; and

kidnapping, intimidation and even murder of religious leaders who support the government, including priests and clergy-trained lay pastors.

Following are some excerpts from the affidavits themselves (page numbers refer to pages in the text):

Digna Barreda de Ubeda, a mother of two from Esteli, was kidnapped by the *contras* in May 1983:

> "[F]ive of them raped me at about five in the evening . . . They had gang-raped me every day. When my vagina couldn't take it anymore, they raped me through my rectum. I calculate that in 5 days they raped me 60 times." (p. 135.)

She also watched *contra* forces beat her husband and gouge out the eyes of another civilian before killing him. (p. 134.)

Doroteo Tinoco Valdivia, testifying about an attack in April 1984 on his farming cooperative near Yali, Jinotega:

> "They had already destroyed all that was the cooperative; a coffee drying machine, the two dormitories for the coffee cutters, the electricity generators, seven cows, the plant, the food warehouse.
>
> There was one boy about 15-years old, who was retarded and suffered from epilepsy. We had left him in the bomb shelter.
>
> When we returned . . . we saw . . . that they had cut his throat, then they cut open his stomach and left his intestines hanging out on the ground like a string.
>
> They did the same to Juan Corrales who had already died from a bullet in the fighting. They opened him up and took out his intestines and cut off his testicles." (p. 70.)

Roger Briones, 15, one of the survivors of a December 4, 1984, ambush on a truck carrying volunteer coffee-pickers which was set afire by *contra* forces: "I could hear the cries and laments of those who were burning alive." (p. 6.)

Mirna Cunningham, a Black Miskito Indian doctor who is now the government's Minister for the northern Atlantic coast, describing how she and a nurse were treated after being kidnapped by the *contras* in December 1981:

> "During those hours we were raped for the first time. While they were raping us, they were chanting slogans like 'Christ yesterday, Christ today, Christ tomorrow . . .' And although we would cry or shout, they would hit us, and put a knife or a gun to our head. This went on for almost two hours." (p. 138.)

Maria Bustillo viuda de Blandon told of how her husband, a lay pastor, and her five children were taken from her home near El Jicaro one night in October 1982; when she found them the next day: "They were left all cut up. Their ears were pulled off, their throats were cut, their noses and other parts were cut off." (p. 57.)

Sister Lisa Fitzgerald, an American nun, testifying about the aftermath of a mortar attack on a tobacco farm near Jalapa in April 1983, in which two women and three children were injured in their homes:

> "All five were filled with shrapnel, particularly the backs of the women who had knelt over the children to protect them. The skull and chest of the one-year-old baby were dotted by shell fragments which I and another sister picked out by hand." (p. 39.)

Mauricio Gonzales, a Miskito Indian, testifying about the April 1984 *contra* attack against the resettlement village of Sumubila:

> "They shot my mother [age 64] in the leg. I opened the door and seeing that they had surrounded the house, I said to them that if we had arms like theirs, we would avenge the blood of my mother.
>
> Then they shot me in the head, on my patio, and I fell. After that, I don't remember anything." (p. 25.)

Inocente Peralta, a lay pastor, went out looking for seven people taken in an attack on a Jinotega cooperative in April 1984. He describes the condition in which the bodies were found; for example:

> "We found [Juan Perez] assassinated in the mountains. They had tied his hands behind his back. They hung him on a wire fence. They opened up his throat and took out his tongue. Another bayonet had gone in through his stomach and come out his back. Finally, they cut off his testicles. It was horrible to see." (p. 66.)

Carmen Gutierrez described the death of her four-year old daughter Suyapa in a June 1983 mortar attack on her border town of Teotecacinte:

> "When we were all in the [bomb] shelter, my mother asked if any of the children were missing, so we called them by their names. Only Suyapa was missing. I went out . . . Then I remembered that I had seen her playing with a hen. I went there and saw her dead. Her face was blown away but I didn't realize it. I didn't even notice the mortaring. I picked her up and ran away like mad. Then I realized that part of her face was missing. I went back to look and found the piece of her face." (p. 41.)

Orlando Wayland, a Miskito teacher who was kidnapped by the *contras* in December 1983, testifying to tortures applied to him and eight others in Honduras:

> "In the evening, they tied me up in the water from 7 pm until 1 am. The next day, at 7 am, they began to make me collect garbage in the creek in my underwear, with the cold. The creek was really icey. I was in the creek for four hours . . .
>
> Then they threw me on the ant hill. Tied up, they put me chest-down on the ant hill. The [red] ants bit my body. I squirmed to try to get them off my body, but there were too many.
>
> I was on the ant hill 10 minutes each day . . .
>
> They would beat me . . . from head to heels . . . They would give me an injection to calm me a little. Then they would beat me again." (p. 121.)

Abelina Inestroza, a mother from Susucayan, testifying about events of the previous day in December 1984:

> "They grabbed us, me and my sister . . . and raped us in front of the whole family. They turned out the lights and two of them raped me and two others raped my sister. They told us not to scream because they would

> kill us. They threatened us with their bayonets. They pointed their guns at the others in the house." (p. 141.)

Maria Julia Ortiz was hiding under the bed when the *contras* broke into her house near El Jicaro in October 1984 and killed her husband:

> "They grabbed my husband and they beat him and broke his neck with a rifle. Then they took him out of the room by one of the doors which was destroyed and they bashed in his head with a rifle and took out his eye.
>
> Then they threw him on the floor and they tied his hands and they cut his throat with a bayonet. He screamed and fought . . . and said that he didn't do anything wrong, but they wouldn't let him speak and put a green cloth in his mouth." (pp. 60-61.)

Martin Piner, a Miskito pastor, describing his treatment after being kidnapped by the *contras* and taken to Honduras in July 1984:

> "He grabbed me by the neck and put me head down in the water. When I couldn't take it anymore, he picked me up and put me back in the water again. It was like that for half an hour.
>
> They took me from there and tied me to a pine tree in the camp for three days.
>
> After 3 days, they untied me. I hadn't eaten for 5 days." (p. 127.)

Noel Benavides Herradora, telling of the December 1982 abduction of Felipe and Mery Barreda, prominent church leaders from Esteli:

> "Mr. Felipe Barreda . . . was bleeding heavily. He was being beaten and had blood all over him. [His wife] was also being beaten. They tied them. I was walking ahead, he was tied behind me, and she was tied further behind. He could hardly walk. I had to pull on the rope to help him along, because the pain prevented him from making it through some ravines, steep hillsides, over boulders and thick vegetation. He kept slipping and falling. And every time he fell they struck him and threatened to get rid of him right there so that he would stop being a burden. Then he would kneel and ask to be allowed to pray an Our Father . . . But they just beat him, kicked him, slapped him in the face and cursed him." (pp. 11-12.)

The Barredas were later tortured and killed. (p. 15.)

* * *

The members of the investigative team were:

Reed Brody. (Team leader and report author.) Mr. Brody, an attorney, is a member of the New York bar. A 1978 graduate of Columbia Law School, he was associated with the New York law firm of Weil, Gotshal and Manges and then spent four years as an Assistant Attorney General in the State of New York. He has taught at the Law School of the University of Paris (Pantheon-Sorbonne) and authored *Latin America: The Freedom to Write* (PEN American Center, 1980).

Sister Sandra Price. Sister Sandra is a nun of the Congregation of Notre Dame de Namur. She has been in Nicaragua since 1981 and in Siuna, in Northern Zelaya province, since 1982. Sister Sandra collected affidavits in the Siuna region only.

James Bordelon. Mr. Bordelon is a student at the Antioch School of Law in Washington, DC. He will receive his law degree in June 1985.

The idea of an independent investigation was conceived by the Washington law firm of Reichler & Appelbaum, which represents the Nicaraguan Government. The participation of two of the members of the team, Mr. Brody and Mr. Bordelon, was arranged by the firm. The participation of Sister Sandra Price was arranged by Mr. Brody after he arrived in Nicaragua. The team members received no compensation for their work and no reimbursement for expenses. Each paid his or her own travel and living expenses except that, during part of their stay in Nicaragua, Mr. Brody and Mr. Bordelon lived in a house owned by the government. While they were in Managua, Mr. Brody and Mr. Bordelon were furnished office space at the government-funded Comision Nacional de Promocion y Proteccion de los Derechos Humanos. Typing of the report was done by Reichler & Appelbaum.

PART I. ATTACKS ON COFFEE PICKERS

Nicaragua is an agricultural country whose foreign exchange earnings depend in large part on its annual coffee harvest. During the harvest season — from November to February — civilian volunteers from all over Nicaragua (and many from abroad) travel to the coffee-growing areas and help with the labor-intensive task of picking the coffee beans. For the past three harvest seasons, the *contras* have staged direct attacks on these volunteers.

1. NAMASLI

January 18, 1983

On January 18, 1983, several truckloads of civilian volunteers set out from the northern city of Jalapa to pick coffee in nearby Namasli close to the Honduran border. The last truck to leave Jalapa, at about 8 am, belonged to Abraham Reyes. Standing in the open-air back of the truck, which had side walls as tall as they, were some 25-30 volunteers. Two children, Guadalupe Ruiz and Pedro Cruz, both about 13, were riding on top of the driver's cabin. All were civilians, although at least two of them were carrying arms for their defense. (Affidavits of Francisco Lopez Ramirez, Elba Bucardo Blandon and Dina Aracely Padilla, Exhibits 1, 2 and 3.) The volunteers went along "with high spirits, singing and shouting slogans". (Affidavit of Dina Aracely Padilla, Exhibit 3, para. 5.)

According to one volunteer:

> "When we were entering the farm where we were going to pick, in Namasli, about 12 kilometers from Jalapa, I saw 2 counterrevolutionaries in a coffee field on the left of the road. They began to shoot and we all threw ourselves on the floor of the truck.
>
> I saw the blood flowing and I asked my friend Francisco, 'Don Chico, are you OK?' 'No,' he said, 'they got me in the foot.' I became nervous.
>
> The child Pedro Cruz, who was traveling on top, fell on my legs . . . He didn't die right away, but later.
>
> The girl Guadalupe Ruiz fell on my back, and lost the crown of her forehead. She died immediately." (*Id.*, paras. 6-9.)

Elba Bucardo, 44, was riding in back:

> "We heard shots . . . . The companeros told everyone to hit the floor . . . I did and listened to the firing.
>
> . . . Emilio, about 16 or 17, was wounded in the arm and I gave him my scarf . . .
>
> . . . I saw Guadalupe Ruiz almost dead . . . [and] Pedro Cruz, dying. I got up to get a little more comfortable and I saw Pedrito lying there, face-up, full of blood.
>
> Then I felt a blow in the back of the head as if I were hit with a fistful of dirt. I felt back and saw blood on my hands and felt that the wood of the truck had fallen on me." (Affidavit of Elba Bucardo Blandon, Exhibit 2, paras. 4-8.)

Francisco Lopez, 46, a farmer, was on the floor of the truck when he received a shot in the foot, which broke it. "They fired 12-inch rockets which landed inside the truck, but did not go off." (Affidavit of Francisco Lopez Ramirez, Exhibit 1, para. 7.)

When the truck with the injured driver reached the farmhouse, the wounded and dead were immediately taken to a hospital in Jalapa. Pedro Cruz, one of the young boys, died in a hospital in Managua. (*Id.*, para. 6.) Francisco Lopez was taken to hospitals in Ocotal and then La Trinidad where he stayed seven months on crutches; he can no longer work in the fields. (*Id.*, paras. 9-10.) Elba Bucardo was taken to Ocotal where they removed shrapnel from her finger but were unable to remove it from her head because it was too deep. She still has frequent headaches and goes to a hospital in Jalapa. (Affidavit of Elba Bucardo Blandon, Exhibit 2, paras. 9-10.)

2. TELPANECA

December 4, 1984

On December 4, 1984, a *contra* task force ambushed a truck carrying volunteer coffee-pickers from the state communications company (TELCOR) near Telpaneca in the Department of Madriz. Twenty-one civilians, including a mother and her 5-year-old child who had hitched a ride, were killed.

The group had assembled in Condega, in the Department of Esteli, and set off from there on December 4, headed for Telpaneca. Four of the pickers piled into Toyota Land-Cruiser pick-up truck and the rest into a dump-truck. (Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, para. 14.) Of the 32 people in the group, no more than 13 were given rifles for their protection in the event of a *contra* attack. (*See* Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, para. 13; Affidavit of Santos Roger Briones Valenzuela, Exhibit 7, para. 8; Affidavit of Lucio Rodriguez Gradis, Exhibit 3, para. 7.) The group left at 7.45 am, stopping to pick up several hitch-hikers including a woman and her 5-year-old boy. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, paras. 9, 18; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, paras. 15, 17.)

A few miles outside of Telpaneca, a *contra* task-force was waiting. It let the pick-up truck pass and then opened fire on the dump-truck from about 20 yards, with a machine-gun, rockets, grenades and rifle fire. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, paras. 11-12; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, para. 18; Affidavit of Lucio Rodriguez Gradis, Exhibit 3, para. 11.) The dump-truck tried to keep going but, after about 100 yards, a rocket destroyed one of its tires. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, para. 13.)

At that point, some of the pickers leaped from the truck as the fire continued. But "the majority of the people had already been shot", and were unable to get off the truck. (Affidavit of Lucio Rodriguez Gradis, Exhibit 3, para. 11.)

Then the *contras*, some 150-300, advanced on the truck, firing. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, paras. 14-15; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, paras. 30, 34; Affidavit of Lucio Rodriguez Gradis, Exhibit 3, paras. 11, 13.) As Roger Briones lay outside the truck with a bullet in his foot, pretending to be dead, the *contras* took off his boots and socks, stole his money and even turned him over. Certain that he was dead, they turned their attention to the others. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, para. 20.) Another picker was lying near Roger with two broken legs. One of the *contras* killed him with his machine gun. (*Id.*, para. 16.)

The majority of people were still in the truck — some alive, some dead, some merely wounded. (*Id.*, para. 16.) To orders of "to the truck", the *contras* climbed on and began to shoot the survivors and cut them up with their bayonets. A few nevertheless remained alive, at least for a while. (*Id.*, para. 17; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, para. 32; Affidavit of Lucio Rodriguez Gradis, Exhibit 23, para. 14.) Then the *contras* took what they could from the truck, including backpacks, documents and money. (Affidavit of Lucio Rodriguez Gradis, Exhibit 2, paras. 1-14; Affidavit of Santos Roger Briones Valenzuela, Exhibit 7, para. 32.) Next they set the truck on fire with gasoline. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 1, para. 18; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, para. 31; Affidavit of Lucio Rodriguez Gradis, Exhibit 3, para. 16.) From where Roger Briones lay, "I could hear the cries and laments of those who were burning alive" (Affidavit of Santos Roger Briones Valenzuela, Exhibit 7, para. 22.)

After burning the truck, the *contras* set off, taking with them Doris, a woman of about 19. (*Id.*, para. 21, Affidavit of Lucio Rodriguez Gradis, Exhibit 3, paras. 20-29.) As they retreated in single file, carrying with them bodies of dead or wounded, they passed within five or six yards of where Jorge Luis Briones lay wounded, but did not see him. (Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, paras. 34-35.)

When the Nicaraguan army arrived, about two hours after the ambush, they took away the dead and the few wounded. Roger and Jorge Luis Briones were taken to several hospitals and eventually wound up together in the hospital in La Trinidad where, for the first time, each realized that the other had survived. Both were there for six days and Roger now walks with crutches. (Affidavit of Santos Roger Briones Valenzuela, Exhibit 2, paras. 25-26; Affidavit of Jorge Luis Briones Valenzuela, Exhibit 2, paras. 38-39.) Lucio Rodriguez spent eight days in the hospital in Somoto; his arm is now in a sling. (Affidavit of Lucio Rodriguez Gradis, Exhibit 3, paras. 23-27.) All together, 21 people — all civilians — died, including five women and one child, and eight were injured. (*Nuevo Diario*, December 6, 1984.)

3. AGRONICA FARM

(Felipe and Maria Barreda)

December 28, 1982.

On December 24, 1982, a group of about 70 volunteer coffee-pickers left Esteli to join the harvest. The group, made up entirely of civilians, had a majority of women. All were adults, and the average age was quite high. (Affidavit of José

Ramon Gallo Bravo, Exhibit 2, para. 17.) Among the volunteers were Felipe Barreda, 51, and his wife Maria ("Mery") Barreda, 49.

The Barredas were well-known citizens of Esteli. Deeply religious, they were Delegates of the Word (lay pastors) and members of the Pastoral Council of the Diocese of Esteli. In the late 1960s and early 1970s they had organized Christian Family Movement retreats, taught courses on Christianity and helped form youth groups and cooperatives. During the insurrection against Somoza, they had worked with the Sandinista Front and helped build Christian base communities in Esteli. Following the revolution, Mery Barreda became a member of Esteli's City Council, and both she and her husband began to work in the poor "Omar Torrijos" neighborhood, promoting literacy and health, organizing a brick-making cooperative and continuing their courses on Christianity.

Leaving their neighborhood to join the coffee harvest on December 24 meant that the Barredas would miss the Christmas holiday. They believed, however, that Nicaragua's earnings from the harvest would mean more to their poor friends. Before leaving, Mery wrote to the people of the Omar Torrijos neighborhood:

> "We have been awaiting this Christmas with real joy. Since we came to live among you, you have become a part of our lives. We love your children, your streets, your problems — in short, everything that is you. The best Christmas gift the Lord could give me would be to share this Christmas with you, and I was wondering what gift I could give you. But then I suddenly had the chance to give you a very fine present, although it means that I will not be with you at Midnight Mass. It is the chance to pick coffee for ten days. The little bit that I will pick will be transformed into health care, clothing, housing, roads, education and food for our people — that is why I am enthusiastic about going. In every coffee bean I pick, I will see each of your faces . . . ." (Quoted in Teofilo Cabestrero, "Dieron La Vida por Su Pueblo" ["They Gave Their Lives for Their People"], *El Tayacan*, Nicaragua (1984), pp. 36-37.)

The group the Barredas had joined reached one farm, Oro Verde, on the 24th and was then moved twice in three days. On December 27, 1982, they reached the Agronica farm near Honduras where, on December 28, they began to pick coffee. (Affidavit of Alicia Huete Diaz, Exhibit 2, paras. 2-5; Affidavit of José Ramon Gallo Bravo, Exhibit 2, paras. 6-12.)

At about 11 am, one of the pickers came running, crying "Get down, get down right away, the *contras* are coming". (Affidavit of Alicia Huete Diaz, Exhibit 2, para. 6.) At that point, they began to hear intense firing of mortars, rockets, machine-guns, rifles and grenades. (Affidavit of Noel Benavides Herradora, Exhibit 3, para. 2; Affidavit of Jose Ramon Gallo Bravo, Exhibit 2, para. 14.)

The pickers headed out on the only road from the farm, running parallel to a creek. As the road was elevated and the creek more protected, the group followed the creek until it turned off toward Honduras. (Affidavit of José Ramon Gallo Bravo, Exhibit 2, paras. 15-18.) At that point, those who could climbed back up to the road. (*Id.*, para. 18-20.)

Upon reaching the road, José Ramon Gallo, 36, was received by machine-gun fire. As the attackers had the road surrounded from above (*id.*, para. 20), he hid in a ditch from where he could hear voices, "Grab that son-of-a-bitch. Don't let anyone escape, especially not the women". (*Id.*, para. 21.)

The Barredas, older, lagged behind along with a few others. As that group helped each other up onto the road, they, too, came under fire. (Affidavit of Alicia Huete Diaz, Exhibit 1, para. 7.)

Gallo, who had been raised by the present Bishop of Esteli and had known the Barredas since participating in their Christianity course in the 1960s, saw Felipe make it to the road where the pickers' Toyota Jeep was parked. Felipe started operating the Jeep's radio to seek help when an explosion rocked the vehicle, destroying its hood and windows. (Affidavit of José Ramon Gallo Bravo, Exhibit 2, paras. 22-23.)

While many of the pickers had made it past the *contras* before they closed their circle (*id.*, para. 21), many others remained trapped. Gallo and two others hid for hours in a ditch as the *contras* fired. (*Id.*, paras. 28-30.) Even after the firing stopped, the *contras* kept yelling for those in hiding to come out. (*Id.*, para. 31.)

Alicia Huete walked the road, where "(b)ullets were raining on us from all sides". (Affidavit of Alicia Huete Diaz, Exhibit 1, para. 9.) So she and those she was with got behind a hill and stayed there for hours. From there, she could see one of the *contras* with a machine-gun, looking down, who apparently did not see them. (*Id.*)

When the shooting stopped, at about 5 pm in the evening, the *contras* came down to about 100 yards from where Huete was. She could hear them saying "son-of-a-bitch, we're not going to leave even one of those son-of-a-bitch rabid dogs. We're going to kill them all". (*Id.*)

But the attackers did leave, and Huete and Gallo and most of the others made it back safely. Although 30 pickers were originally missing, little by little all but six showed up — four young men and the Barredas. (Affidavit of José Ramon Gallo Bravo, Exhibit 2, para. 39.)

Noel Benavides, one of the men who did not return, was hiding about a kilometer south of the farm when the *contras* spotted him. They tied him up, put on steel handcuffs and blindfolded him. (Affidavit of Noel Benavides Herradora, Exhibit 1, para. 13.) Then, when they took him and three others to a point further on,

> "Mr. Felipe Barreda and his wife were already there. He was bleeding heavily. He was being beaten and had blood all over him. She was also being beaten. They tied them. I was walking ahead, he was tied behind me, and she was tied further behind. He could hardly walk. I had to pull on the rope to help him along, because the pain prevented him from making it through some ravines, steep hillsides, over boulders and thick vegetation. He kept slipping and falling. And every time he fell they struck him and threatened to get rid of him right there so that he would stop being a burden. Then he would kneel and ask to be allowed to pray to Our father before they killed him so that he would not die just like that, but that he wanted to pray to the Lord. But they just beat him, kicked him, slapped him in the face and cursed him." (*Id.*, para. 4.)

That evening they reached a post where Honduran guardsmen were mixed with *contras*. One of the soldiers said to leave Mery there. They insulted her and told her she would be raped by the whole troop, and she was left there. (*Id.*, para. 5.) The others continued walking until, at three in the morning, they were presented to another Honduran guard post. There,

> "They started insulting us, threw us face-down on the ground and began beating us. One of the guards said that he would be the one to kill those dogs, to just leave it to him. He kicked us and said: 'Turn right-side up, take their blinds off.' They pulled our blindfolds off and placed their rifle-butts on our foreheads and fixed their bayonets. But one of the counterrevo-

> lutionaries said that he could not leave us there because the chief was not there and without the chief being there he could be sanctioned." (*Id.*, para. 6.)

Then they were made to carry the wounded as well as loads of ammunition. Again,

> "the guardsmen beat us and insulted us. And don Felipe too, and they yelled at him: 'You are a Sandinista, you sonofabitch', and kept beating him. He moaned and told them not to beat him, but that was difficult. He asked them to loosen his handcuffs a little, for they were digging into his flesh, which was bleeding. Then one of the guards, said, 'Tighten his handcuffs even more, let the old bastard's hands fall off!' One of the guardsmen proceeded to tighten all of our cuffs.
>
> Don Felipe could no longer walk because the blows had been too much for his age; he had lost too much blood and could not walk. As we went on in file we pulled him with the rope, which was the most we could do. He walked on his knees or crawled, and thus we pulled him. At the top of a hill we could not pull him any longer. Then they said that we would eat his ears; that we were going to cut them off and we would eat one of his ears while he [illegible] to eat the other. And if he still would not walk, we would have to [illegible] him to pieces until he was dead. And that if any of us got tired, the other had to do the same until we were finished off.
>
> Thus we continued walking and walking, with blows upon rifle blows upon insults, and thus we arrived about two days later to a jail the counterrevolutionaries had on a hill. We had passed by camps where we heard strange voices, like from people who could not pronounce Spanish or voices I know not from what country. We were told these were military detachments. Where they took our blinds off for a while we saw along a hillside, in hollows, huge bundles covered with black, olive-green and camouflage canvas; in the woods we saw rainproof tents with many bundles." (*Id.*, paras. 7-9.)

In that jail, the prisoners were stripped.

> "They manacled us up, tied us, blindfolded us once again and strapped us to trees. Three days after we arrived, doña Mary [Barreda] arrived, quite beaten and hemorrhaging. She collapsed upon arriving due to the extenuation, the fatigue and the blows. They also stripped her of everything. They strapped her to a tree next to us. Thus we spent two days and two nights, strapped to the trees, standing, naked, barefoot, in the mud, and under the rain. They kept harassing us, and whenever a counterrevolutionary or a guardsman passed by he would threaten us with bayonets against our necks, against our chests, cursed us and slap us in the face. They kept saying: 'Don't worry, for tonight you'll be dead. Don't worry, for tonight we are going to slit your throats. Right against those very trees, that's where you are going to die.'
>
> The following night, still naked, they threw us into a gully, into a crevice. We moaned from the cold, the pain, the rain, the mud; the Barreda couple as well as the rest. Two days later they pulled us out of there. They interrogated them and us, they accused us, they beat us.
>
> After five or six days of blows, torture, insults, interrogation, they said they would give us an opportunity to preserve our lives. They untied us, took our blinds off, and dressed us in US-made suits: camouflage caps, camouflage brown and green jackets, jungle boots and pants. They placed machine-guns, FAL rifles, all sorts of weapons on our chests, across our

> chests we had to wear them. We were photographed and told to say that we had come to Honduras to join them, to make an appeal to the Nicaraguan people saying that we had left to join them and the rest should do likewise . . . . And everything they told us to do we had to do, or else we would die." (*Id.*, paras. 10-12.)

The Barredas, too beaten to travel, stayed in the jail (*id.*, para. 16) while the other captives were taken to another camp.

> "They said they had a camp where we were going to be taken, and whomever wanted could be trained in special commandos, specialized in torture, in interrogations and something like throat-cutting; they kept talking about special training, that they could send us to a training camp or to the United States or a place like that for classes . . . . We were taken there at night forewarned of what would happen to us should we try to escape, which is what had happened to the three who had tried to escape a day earlier: a boy about 13 years old, one of about 17 and another of about 20 whose throats were cut right in front of us by a special commando that took care, they said, of deserters." (*Id.*, para. 13.)

At the camp in Danli,

> "There were also many other people there — mothers, fathers, brothers, children — relatives of kidnapped people who had been threatened that, if they escaped, those held would be killed. Therefore the possibility of escaping was quite difficult." (*Id.*, para. 16.)

The four remaining pickers were given five lempiras (Honduran currency) each to get cigarettes. (*Id.*, para. 16.) Noel Benavides simply announced that he was going to buy something in the store, walked until he reached a telephone office, and called the Nicaraguan Embassy in the capital city of Tegucigalpa, and he was told they could come and pick him up. He got his friends from the camp and they hid in town until the embassy car came and took them home. (*Id.*, paras. 16-21.)

The Barredas were not as lucky. Nothing was known of their fate until June, 1983, when the Nicaraguan government captured a young *contra* officer named Pedro Javier Nunez Cabezas, alias El Muerto ("the Dead Man"). Shown on national television, El Muerto was identified by Noel Benavides and the others as the man responsible for their maltreatment. (Teofilo Cabestrero, "Dieron La Vida por Su Pueblo", *El Tayacan*, Nicaragua, 1984, p. 9.)

In statements given to the Nicaraguan press, El Muerto described the execution of the Barredas:

> "At one-thirty, more or less, they brought Felipe Barreda, who had shrapnel wounds. Later at about five in the afternoon, they brought in senora Maria Eugenia who had been badly mistreated and had a bad vaginal hemorrhage. I ordered that they be tied up [together with the four others] in a coffee plantation. The next day, the Barredas were brought blindfolded to a house to be interrogated. The interrogations were conducted separately. I applied psychological torture with the senora but I gave Mr. Barreda a blow on the head with the butt of my pistol and kicked him all over when he refused to accept what his wife had said . . . .
>
> During some sessions, we would only hit them in their bodies, because we were waiting for the [counterrevolutionary television crew] and we didn't want them to appear with disfigured faces. Therefore the orders which I gave and executed were to kick them in the body, to hit them where it

wouldn't leave any signs when the time came to show them on television . . .

That night they were both taken outside nude so they would spend the night under the rain. The next day [the television] interviewed them. After that, El Suicida [El Muerto's superior] told me to kill the Barredas and I carried out the order shooting them in the head with the help of Juan and Tapir." (*Id.*, pp. 10-11.)

4. LA SORPRESA

November 14, 1984

On November 14, 1984, a *contra* force of approximately 400-600 men attacked the state farm "La Sorpresa", 45 kilometers north of Jinotega, killing 17 of its members — all civilians — kidnapping others and destroying most of its facilities.

Like other farms in these fertile hills, La Sorpresa was preparing itself for the coffee harvest. A week later, it would have been the temporary home for hundreds of volunteer pickers who came to the Matagalpa-Jinotega region to help with the coffee picking, and that morning the members of the cooperative were at a meeting to coordinate the upcoming harvest. (Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 3.)

The head of the farm, Luis Amado Morles, left in a tractor to bring wood from nearby El Sarayal. As he approached his destination he was told that the *contras* were in the vicinity and he returned to the farm to warn the others. (*Id.*, para. 4; Affidavit of Julio Cesar Torrez Perez, Exhibit 7, para. 3.)

The farm was defended by only 20 resident civilian defenders who took up positions as the *contras* attacked with 79 millimeter grenades, hand-grenades, mortars, RPG-2 and RPG-7 and rifle fire. (*Id.*, Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 12.) The attackers quickly surrounded the farm, killing 10 of the milicianos (Affidavit of Julio Cesar Torres Perez, Exhibit 7, para. 10; Affidavit of Jose Ruiz Martinez, Exhibit 6, para. 6), including Jamilet Sevilla, a pregnant 17-year old mother (Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 10; Affidavit of Julio Cesar Torres Perez, Exhibit 7, para. 14), and forcing the others to flee.

Julia Picado Gonzalez was in her house with 6 of her 8 children when the attack started. She grabbed the milk for her 18-month-old baby and fled as the *contras* entered, yelling, "If we find the women of the rabid dogs in their houses, we'll cut their throats with the whole family". (Affidavit of Julia Picado Gonzalez, Exhibit 5, para. 10.) As they left, the *contras* shot at them and they continued their retreat by crawling up a hill to a coffee plantation. From there she watched as the *contras* shot her husband in the shoulder, then hit him with a grenade which destroyed his head. (*Id.*)

When the *contras* overran the farm, they finished off the wounded and dying with bayonets, rifle shots and grenades. (Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 18.) Jamilet Sevilla was later found with a bayonet blow in her pregnant belly. (Affidavit of Maria Helena Ferufino, Exhibit 4, para. 5; Affidavit of Julio Cesar Torres Perez, Exhibit 7, para. 15.)

The women and children fled the day care center where they had taken refuge. The *contras* shot at them, killing Telma Gonzalez and her 16-month-old baby Jose Rodolfo Ruiz, as well as another 4-year-old child, Carlos Jose Mejia,

(Affidavit of Julia Picado Gonzalez, Exhibit 5, para. 21; Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 26; Affidavit of Marta Ruiz Jimenez, Exhibit 2, paras. 4-5.)

Santos Gonzalez was in her house when she heard the firing. She threw herself on the ground and watched from the cracks in the wall as the *contras* surrounded and then entered the farm. Her son, José Alejandro Pineda, was in front of the house. "They grabbed him alive, struck him on the forehead with a machete and his brains spilled. Then they burned him." (Affidavit of Santos Gonzalez, Exhibit 3, para. 7; *see also* Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 19.)

As the *contras* retreated, they ordered two of their captives, Benito Talavera and Nicolas, to burn the houses. Benito went to the houses warning those still in them to "leave, because I'm going to set the house on fire". (Affidavit of Santos Gonzalez, Exhibit 3, para. 14; Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 17.)

The attackers were able to destroy the coffee plant, 600 pounds of coffee, the coffee pulping machine, three dormitories, the offices, the kitchen, the houses and the food warehouse where beans, rice and fertilizer were stored, as well as the dormitories for the seasonal workers and the pickers. Only a few houses, two motors, the mill and the electric generator were not destroyed. (Affidavit of José Ruiz Martinez, Exhibit 6, para. 12; Affidavit of Salomon Rivera Alaniz, Exhibit 1, para. 14.)

The nearby Los Andes hacienda was also burned, including the main house and the kitchen. (Affidavit of Francisco Ernesto Toruno Rodriguez, Exhibit 10, para. 12.)

The *contras* took several captives as they left. Omar Gutierrez was forced to carry a chain saw and Nicolas Molina, the farm's accountant, two backpacks. Some Miskito Indians who had been resettled on the farm were also taken, and one was forced to carry two dead *contras* roped on to his back. (Affidavit of Julia Picado Gonzalez, Exhibit 5, para. 23.)

Meanwhile, the 17 dead bodies of the victims of the attack were taken to nearby Abisinia. Luis Amado, the head of the farm, had his feet, his hands and his testicles cut up. (Affidavit of Julia Picaso Gonzalez, Exhibit 5, para. 20.) Mundo Cruz had bayonet wounds in his face and his testicles cut off. (Affidavit of Julio Cesar Torres Perez, Exhibit 7, para. 16.) Pedro Ortiz's head was smashed in and his testicles were also cut off. (*Id.*)

Also among the dead were three Miskitos, including a teacher, and two children: Elida and Renee Torres. (Affidavit of Julia Picado Gonzalez, Exhibit 5, para. 22.)

According to the *New York Times* account of this attack, after that Wednesday, the *contras*:

> "set an ambush along a nearby road for any relief column that might try to reach the devastated farm. The first vehicle that passed, however, carried Evenor Castro Ibarra, an official of the National Development Bank who was returning to the town of Jinotega after visiting several remote cooperatives. The rebel commandos killed him, left his body beside his jeep, and remained in wait for others.
>
> On Thursday morning, two top Sandinista officials from Jinotega, Ronald Paredes and Denis Espinoza, set out by jeep to assess the damage at La Sorpresa. Among the seven people accompanying them were a bank official concerned about Mr. Castro Ibarra's disappearance and a reporter from Barricada, 34-year-old Juan Bautista Matus Lopez, a longtime Sandinista.

All but one were killed when their car drove into the rebel ambush." (S. Kinzer, "Nicaraguan Rebels Step Up Raids in Coffee Areas as Harvest Nears", *New York Times*, Nov. 23, 1984, p. 1.)

Part II. Attacks on Farms and Villages

5. LA ESTANCIA

October 14, 1982

In the small community of La Estancia, outside of Jalapa, Julio Villareina Perez, 38, Juan Ramos Caceres, 22, and Margarito Rivera, 45 — all civilians — were mutilated and killed by a *contra* band on October 14, 1982.

That morning, Rivera left his house at 4.30 am to work in his cooperative. His wife, Maria Luisa Jimenez, had given birth only eight days before and was home in bed. (Affidavit of Feliciana Rivera Jimenez, Exhibit 3, paras. 2-3.) Later that morning, a group of 30 armed men in blue FDN uniforms came through the village. When they passed the house of Feliciana, Rivera's daughter, they heard her say something about "dogs" and pointed their guns at her, but then went on to Rivera's house. When they passed by his house, which was flying a red and black Sandinista flag, they said: "It's ours. Let's mark it because it will be our command post." (*Id.*, paras. 9-11.)

They asked Rivera's son if he knew who the local health leaders were, who the party members were, and whether the *contras* had passed by. Before leaving, they marked the house, "with God, patriotism or death. FDN". (*Id.*, paras. 11-12.)

Two of the band also passed the house where Juan Ramos Caceres lived with his mother, asking for Juan's brother Ricardo. When they saw that Ricardo wasn't there, they said they were going to take Juan away for an "investigation". Despite Juan's protests and his father's supplications, they then took him. (Affidavit of Antonia Caceres Centeno, Exhibit 1, paras. 2-3.)

A little later, shots were heard (*id.*, para. 4; Affidavit of Feliciano Rivera Jiminez, Exhibit 2, para. 4). Then news came that Margarito Rivera, Juan Ramos Caceres and Julio Villareina had been killed. (Affidavit of Antonia Caceres Centeno, Exhibit 1, para. 5; Affidavit of Feliciana Rivera Jimenez, Exhibit 3, para. 16; Affidavit of Mercedes Centeno Ramos, Exhibit 2, para. 4.)

Mercedes Centeno Ramos found her husband Julio Villareina's dead body when it was already laid out in an aunt's house. "His face was swollen, his throat was slit, his arms were beaten and swollen. He had been hit so many times that he looked different." (Affidavit of Mercedes Centeno Ramos, Exhibit 2, para. 4.)

Antonia Caceres Centeno went looking for her son Juan, but could not find him. At about 9 am, she was told that they had found his body in the fields. By the time she got there the police had taken it to Jalapa. There, she saw her son's body. "It was shredded up, full of bullets. The legs were broken, there were bullets in its side and the back, and all cut-up with wire . . . it was disfigured and bloody." (Affidavit of Antonia Caceres Centeno, Exhibit 1, para. 8.)

Margarito Rivera was not yet dead when his daughter found him lying in a hammock in the command post. He had two wounds in his throat. She accompanied him to the hospital in Ocotal where they gave him a liter of blood and where, unable to speak, he told her in writing what had happened. (Affidavit of Feliciano Rivera Jiminez, Exhibit 3, paras. 18-22.)

> "He told me that they had taken him. The first group let him go. The group that came afterwards told him 'you're coming with us'. They took him under a bridge and tied his hands behind his back . . . They asked him where Chico Caceres and Armando were and who was in charge of health and the CDS [Sandinista Defense Committee]. He said he didn't know. They told him if he didn't speak they would shut him up for good. They gave him a blue poison orally. He said that when they attacked him he didn't feel anything and when they gave him the first blow of the bayonet, he fell, got up and fell again and they left him for dead." (*Id.*, para. 23.)

They also stole 3,000 cordobas he had in his pocket. Margarito was taken to a hospital in Managua, where he died several weeks later. (*Id.*, paras. 29-39.)

All of these families left La Estancia after this incident, but when a resettlement cooperative ("asentamiento") was built there, they and other refugees from La Estancia and other regions went to live in the cooperative.

6. SUMUBILA

April 17, 1984

There are five communities on the road between Puerto Cabezas and Rosita, in Northern Zelaya province, to which Miskito Indians living along the Honduran border were resettled in 1982.

The largest of the communities is Sumubila, with some 3,200 Miskitos living in single-family wooden houses to which they have been given title.

On March 19, 1984, *contra* soldiers in the Misura Military Instruction Center (CIMM) in Honduras were told by "Chan", a former member of General Somoza's elite EEBI unit, that, on the orders of Miskito *contra* leader Steadman Fagoth, a force of 500 *contras* would leave the center to kidnap residents of Sumubila. Other troops were simultaneously ordered on other missions, including a group of 30 which was to attack the military base in Puerto Cabezas as a diversionary action. Another six men went to Esperanza, on the Rio Coco, to receive the kidnapped. (Affidavit of Orlando Wayland Waldiman, Exhibit 1 to Francia Sirpe chapter, paras. 53-54.)

On April 17, 1984, at about 4.30 am, the *contra* force began a surprise entry into Sumubila. They attacked the settlement from three sides with mortars, rockets, grenades and rifle-fire, easily overwhelming local resistance. (Affidavit of Raul Davis Arias, Exhibit 1, para. 41; Affidavit of Francisco Calix Romero, Exhibit 8, paras. 6-7; Affidavit of Silvestre Taylor Mendoza, Exhibit 11, para. 4.)

Cristina Atoya, a nurse who was five months pregnant, was in the health center with her sick daughter when she heard the first shots, and hid with the child under the bed. Then she heard the *contras* draw closer, and shots entered the health center. One of the bullets ruptured the oxygen tank, setting the center on fire. There were four patients hooked to intravenous tubes. Ruth Gramm, the nurse on duty, unhooked them and they all fled the burning health center, crawling until they got to a pit on a nearby hill where they lay face-down for hours until the shooting was over. (Affidavit of Cristina Atoya Gonzalez, Exhibit 6, paras. 1-9.)

Along with the health center, the advancing *contras* set fire to the senior citizens' artisanry center, the cacao warehouse, the electricity plant, the settlement's only ambulance, the agrarian reform office and the fumigation center. (Affidavit of Francisco Calix Romero, Exhibit 8, para. 14; Affidavit of Silvestre

Taylor Mendoza, Exhibit 11, paras. 5 and 7; Affidavit of Father Antonio Sandoval Herrera, Exhibit 13, para. 7.)

A truck driver on his way from Puerto Cabezas to Matagalpa had parked his truck for the night in the settlement. The *contras* shot him and then stabbed him four times with their bayonets, killing him. His truck was destroyed as well. (Affidavit of Francisco Calix Romero, Exhibit 8, para. 14; Affidavit of Silvestre Taylor Mendoza, Exhibit 11, paras. 13-14.)

Mauricio Gonzales was in his house with his 64-year-old mother:

> "We had never heard firing like that day, so my mother got up to run from the house. I grabbed her and sat her on the bed.
>
> They shot by mother [age 64] in the leg. I opened the door and, seeing that they had surrounded the house, I said to them that if we had arms like theirs, we would avenge the blood of my mother.
>
> Then they shot me in the head, on my patio, and I fell. After that, I don't remember anything." (Affidavit of Mauricio Gonzales, Exhibit 10, paras. 2-4.)

When Gonzales' niece, Cristina Atoya, returned after the attack, she found Gonzales and his mother lying on the floor. "My grandmother was bleeding, but she was already dead. Only [my 5-year-old daugher, crying] covered with blood and hugging my grandmother, was alive there." (Affidavit of Cristina Atoya Gonzalez, Exhibit 6, para. 10.) Gonzales had to be taken to the hospital in Rosita but did not recover consciousness until he reached the hospital in Puerto Cabezas, from which he was transferred to a Managua hospital. He remained there for two months. (Affidavit of Mauricio Gonzalez, Exhibit 10, paras. 6-8.)

A bullet entered the house where Julio Obando, 55, lived with his wife and eight children, and hit him in the side, killing him on the spot. (Affidavit of Rosalia Ralp Obando, Exhibit 3, paras. 2-4.) Other bullets wounded Candida Lopez, 28, in the mouth and cheek, sending her to the hospital for four months. Affidavit of Estela Lacayo Smith, Exhibit 12, para. 6.)

As some of the *contras* defeated the outnumbered local defense, others went from house to house pulling people out. Avelino Cox watched them:

> "One of the *contras* came from another neighborhood, telling the others to get all the young people out. I could see through the corner of my window that they already had a lot of youths from my neighborhood . . . concentrated, under their pointed guns.
>
> The first people they took from my neighborhood were two of my brothers-in-law, Ricardo and Eduardo Coleman. To date, we haven't heard anything from them. Eduardo was pretty sick, very weak." (Affidavit of Avelino Cox Molina, Exhibit 2, paras. 10-11.)

After an informer pointed out that Cox worked for the agrarian reform ministry (MIDINRA) and had a pistol:

> "3 *contras* came, aiming their heavy arms at my house, saying that if I didn't come out they would set my house on fire. Since I saw that the other houses that had been pointed out were burning, I was scared, but I didn't come out. A sister-in-law came out of her house and said 'my brother-in-law isn't here'. But [the informer] said no, I had come in at 9 pm.
>
> Faced with that, I had to come out, my hands in the air as they had ordered. They shoved me and took me to a group they had kidnapped approximately 10 or 15 others, all youths." (*Id.*, paras. 12-13.)

The *contras* came four times looking for Evaristo Waldan, who had hid in a tree trunk. They finally caught up with him there and, aiming their rifles at him, grabbed him and tied him up. (Affidavit of Evaristo Waldan Chico, Exhibit 5, paras. 9-10.)

In other cases, the whole family was first taken out of the house. Raul Davis, 21, was taken out with his father-in-law and all of his father-in-law's children. They were taken to where the *contras* were holding a group of 200-300 people, including children and older people. Davis was then ordered to join a smaller group of youths who were being held on the baseball field. (Affidavit of Raul Davis Arias, Exhibit 1, paras. 9-12.)

The group of captives also included a 12-year-old boy, Orlando Sosa (Affidavit of Colombina Lacayo de Sosa, Exhibit 4, paras. 3 and 6; Affidavit of Remigio Manzanares O'Meer, Exhibit 7, para. 16); the local doctor, Roberto Valle; the administrator of the health center, Jorge Ibarra (Affidavit of Avelino Cox Molina, Exhibit 2, para. 16; Affidavit of Evaristo Waldan Chico, Exhibit 5, para. 16); and five women (Affidavit of Evaristo Waldan Chico, Exhibit 5, para. 16), including Mercedes Thomas, a pregnant woman who was taken along with her husband. (Affidavit of Laura Hammer, Exhibit 9, para. 8.) In all, more than 35 people were taken. (*See* Affidavit of Evaristo Waldan Chico, Exhibit 5, para. 11; Affidavit of Father Antonio Sandoval Herrera, Exhibit 13, para. 11.) When the group was all together, one of the *contras* got on his walkie-talkie and said: "We've captured the population of Sumubila and we're taking the people away." (Affidavit of Avelino Cox Molina, Exhibit 2, para. 23; Affidavit of Raul Davis Arias, Exhibit 1, para. 15.)

The *contras* commanded their captives, "March, civilian sons-of-bitches" (Affidavit of Raul Davis Arias, Exhibit 1, para. 16; Affidavit of Avelino Cox Molina, Exhibit 2, para. 23), and took the group off into the mountains. As they went along, the *contras* ordered their captives, "Run you sons-of-bitches. You're happy in your houses with your women and we're in the mountains fighting for you, to save you from communism". (Affidavit of Avelino Cox Molina, Exhibit 2, para. 24.) When the wife of one of the bound captives, whose 8-year-old child was also being taken captive, asked to have her husband untied so that he could walk better, a *contra* replied, "Eat shit bitch, I'm not your brother". (*Id.*, para. 25.)

As the hostages were taken away by one *contra* group, another continued the attack. They took the volunteer police station, killing one man, Maximo Cano, and wounding another. (Affidavit of Francisco Calix Romero, Exhibit 8, paras. 8-10; Affidavit of Remigio Manzanares O'Meer, Exhibit 7, para. 16.) With the help of some communications company workers, the residents were able to retake the police station. (Affidavit of Remigio Manzanares O'Meer, Exhibit 7, paras. 17-19; Affidavit of Francisco Calix Romero, Exhibit 8, para. 9.) Then planes the residents had requested came from Puerto Cabezas and the *contras* set off back into the hills. (Affidavits of Remigio Manzanares O'Meer, Exhibit 7, para. 11; Francisco Calix Romero, Exhibit 8, para. 21; Silvestre Taylor Mendoza, Exhibit 11, para. 19.)

Among the dead were a 12-year-old boy (Affidavit of Silvestre Taylor Mendoza, Exhibit 11, para. 16) and a one-year-old child (Affidavit of Laura Hammer, Exhibit 9, para. 6). As the health center had been destroyed, there was no medicine with which to treat the wounded, who were all taken to the mining town of Rosita. (*Id.*)

The flight of the planes also caused disarray in the *contra* group taking the hostages, allowing Raul Davis and Avelino Cox to escape. The *contras* fired at them as they fled and then chased after them, but they were able to make their getaway. After spending the night in the hills, they made their way back to Sumubila. (Affidavit of Raul Davis Arias, Exhibit 1, paras. 24-37; Affidavit of

Avelino Cox Molina, Exhibit 2, paras. 31-34.) The *contras* continued on with the others, beating some of them (Affidavit of Evaristo Waldan Chico, Exhibit 5, para. 16) and warning them not to try to escape (*id.*, para. 18). After about 10 days Jorge Ibarra and Roberto Valle were able to escape, as was Evaristo Waldan the following day. (*Id.*, paras. 23-24.) Waldan spent 10 days walking through the mountains before finding his way back to Sumubila. (*Id.*, para. 25.)

7. BOCANA DE PAIWAS

August 1981-November 1984

The remote mountainous region of Bocana de Paiwas, in Central Zelaya the geographical center of Nicaragua is divided into 33 small, isolated, townships. With the exception of Paiwas, these townships are accessible only by river or mountain path. There is no telephone system and no electricity. Lacking adequate protection by the regular army, the villagers have been subject to a series of *contra* attacks.

According to Father James Feltz, an American, who is the area's parish priest, the *contras*

> "have tried to intimidate people who are working with the grassroots organizations. The greater the individual's contribution to the community, the more likely he or she will be singled out as a target by the FDN [the Nicaraguan Democratic Force, the main Honduras-based *contra* group]. These victims have included adult education workers, sugar distributors and coordinators of cooperatives." (Affidavit of Father James Feltz, Exhibit 1, para. 3.)

The first major attack in this area occurred in August 1981. Four campesinos, apparently singled out because they had joined a local militia unit, were assassinated in the township of Santa Rosa. (*Id.*, para. 4.)

On March 3, 1982, a *contra* band surrounded and then entered the small church in Copolar, where Father Robert Stark and Father Feltz were meeting with the local pastoral leaders. After rounding up the participants and questioning them individually about whether they had ever participated in the local militias, the leader warned everyone not to participate in the militia or education or health care, and not to report the incident to the authorities. Then he announced that his band had just shot someone on the road for encouraging people to participate in health, education and self-defense. The priests set out in search of the victim. Father Stark testified:

> "Less than a kilometer from the chapel we found Emiliano [Perez's] body face down . . . [H]e was still struggling to breathe despite the blood beginning to hemorrhage from his mouth and nose. He had obviously been shot in the chest heart area at least twice with blood also coming from his side and arm as well as the back of his head." (Affidavit of Father Robert Stark, Exhibit 2, paras. 12-13.)

According to Father Feltz, Perez, who died from the wounds,

> "was one of the leading citizens of the community of Paiwas. Perez had worked closely with the parish for many years, serving as a Delegate of the Word [lay pastor] for the previous 12 years. He was also a local judge and a father of ten children. The *contra* had long threatened to kill him . . .
>
> The murder . . . made it more difficult to recruit students for adult

> education and volunteers for health brigades. The *contra* had expressly told the people of Copolar that Emiliano's death should be taken as a warning to anyone who participated in the grassroots organizations." (Affidavit of Father James Feltz, Exhibit 1, paras. 5-6; *see also* affidavit of Susana Castro, widow of Perez, Exhibit 6.)

Other participants in local organizations received similar messages. Felipe Oporta was coordinator of the Sandinista Defense Committee (the Sandinista neighborhood association) in El Jorgito and ran a store there selling sugar and soap — two important products in rural areas. When a townsman was stopped by the *contras* and identified himself as coming from El Jorgito, he was reportedly questioned at length about Oporta — because he was on their list. "What did he do?" "To whom did he sell his products?" The man was reportedly told that they already had a lot of information on Oporta and would continue investigating his behaviour. (Affidavit of Felipe Oporta Solano, Exhibit 7, para. 4.) Later, Oporta's son-in-law, who also sold basic products, was murdered and his body was found covered with bayonet wounds. (*Id.*, paras. 5, 7.)

In August 1982, and again in January 1983, the *contras* attacked the Flor de Piño Cooperative in Malacaguas. In the first attack, they broke in, late at night, to the home of Fausto Sanchez, the coordinator of adult education, killing him and wounding his brother. In the second attack, they decimated the cooperative, killing eight members and forcing the others to flee. (Affidavit of Father James Feltz, Exhibit 1, para. 8.)

In late August 1983, a band said to be composed of 350 *contras* and 150 kidnapped civilians entered the Paiwas mountains and launched attacks on four townships in the region: El Anito, El Guayabo, Las Minitas and Ocaguas.

In El Anito, the *contras* killed six unarmed civilians. After shelling the town, they forced the villagers to go to the chapel and lie face down while their houses were burned. Valentin Velasquez and Aristina Cerda, a married couple with 10 children, testified about the attack:

> "[The *contras* arrived] at our house. We were all on the floor because they had mortars and gunfire. They stayed about an hour in the house, taking everything. When they finished that, they took us to the chapel along with the other persons of the community. They said they wanted to free the people from communism and that they didn't like the Russians. They were very proud of the arms that they received from Reagan, saying that the arms that the Sandinistas had weren't good. They asked for gasoline and burned down the houses, including the ENABAS warehouse [government center for distribution of basic products] which we ran.
>
> They left us naked in the street . . . They also killed six people from the community: Felipe Amador, an outstanding 15-year-old who gave classes; Emilio Sotelo, an evangelist who was waiting for the boat; Tomas Mendez, the CDS leader who also had a sugar store — they beat him, broke his head and tortured him as an example to us; Roberto Mendez, Tomas's nephew; Geronimo Espinoza, who committed the error of saying that the 'compas' [Sandinistas] were good people and for this had his head cut off; and Natividad Ojera, also beheaded.
>
> In addition to the deaths, they left us to beg for food and clothing . . . The destruction of the ENABAS store left many children suffering from malnutrition — about 2,000 people used the warehouse . . .
>
> . . . And there is always the fear that they will return." (Affidavit of Valentin Velasquez and Aristina Cerda, Exhibit 3.)

Augustin Sequeira Rivas was the head of the local Sandinista Defense Committee in El Anito. When he heard the *contras* entering the town, firing and shelling mortars, he fled and spent eight days in the mountains before arriving in Bocana de Paiwas. When his wife and five children were able to join him, they told him what had happened. (Affidavit of Augustin Sequeira Rivas, Exhibit 5, paras. 1-5.)

According to his wife, the *contras* surrounded, then entered, their house. After interrogating his wife, they stole 15,000 cordobas (about $500), food and medicine, and then locked her up in a room while they ate and slept. The next morning they let her out, told her that they had killed Augustin, took some mules to ride and carry their supplies, and burned the house down. Like Valentin Velazquez, and Aristina Cerda and Felipe Oporta, Sequeira and his family are among the many people who have taken refuge in Bocana de Paiwas. (*Id.*, paras. 6-9.)

Father Feltz visited El Anito and the other sites shortly after the attack. In El Guayabo:

> nine people had been killed;
> a 14-year-old girl had been raped repeatedly and then decapitated;
> three women were forced to lie in the mud while the *contras* took shots at them, killing one and wounding another;
> a woman was raped;
> 10-year-old Cristina Borge, who witnessed the killing of two uncles and another woman, was used as target practice and received four bullet wounds before being left for dead. Miraculously, she survived.
> Four houses were burned.

(Affidavit of Father James Feltz, Exhibit 1, paras. 10-11.)

In Ocaguas, three campesinos had been killed. One was stabbed to death after his eyes had been gouged out. Another was found hung from a beam in his own house. (*Id.*, para. 15.)

In Las Minitas, the *contras* burned six houses and killed two local leaders. A Delegate of the Word (lay pastor) who escaped told Father Feltz that one *contra* threatened to cut off his head so that they could drink his blood, while another suggested that they "hang him until his tongue sticks out to punish him for not telling us where his sons [militia members] are". (*Id.*, para. 16.)

After touring the area Father Feltz calculated that 20 civilians had been killed, 2 women wounded, 3 women raped, 18 houses burned to the ground and 144 refugees forced to flee to the town of Paiwas. (*Id.*, para. 17.)

On Christmas eve, 1983, a band of 20 counterrevolutionaries entered the comarca of Calderon. At about 4 am, the attackers surrounded and entered the house where Julio Cesar Ortiz, 19, lived with his wife, two children and in-laws. They made Ortiz lie face-down on the floor and demanded that he tell them how many men were in the militia post and what kind of arms they had. When he refused, they made him and another man accompany them to the post. (Affidavit of Luis Ortiz Martinez, Exhibit 4, paras. 4-5.)

About 100 yards from the post, they made Ortiz and the other man lie face down again while they unsuccessfully attacked the post. Returning to where the two lay, they said "Since we couldn't find your father [a miliciano], you're going to pay" and shot Ortiz in the head, killing him. They also shot the other man in the back of the neck and left him for dead, but he did not die. After leaving the town, they killed Josefa Molinarez, the other man's wife. Like the others, Ortiz's family are now refugees in Bocana de Paiwas. (*Id.*, paras. 6-13.) They have no work. Ortiz's father said, "we receive food and clothes. The small children and we are living hard times." (*Id.*, para. 14.)

The next major attack in the area took place in El Jorgito on May 13, 1984, when a *contra* band armed with mortars, hand grenades and machine guns surrounded and attacked a house where a group of unarmed civilian militia members were having a party with their wives and children. According to witnesses, the *contras* lobbed hand grenade after hand grenade, 30 in all, killing 5 women, 9 children and 20 adult men. Some had their throats slit or faces peeled. (Affidavit of Father James Feltz, Exhibit 1, paras. 18-24.)

On about October 15, 1984, the *contras* attacked two cooperatives in the township of La Paila. In one, they killed two elderly men and a child, and seriously wounded one woman. They burned three houses and forced 48 people to flee. In their attack on the second cooperative, they were repulsed. (Supplemental Affidavit of Father James Feltz, Exhibit 1, paras. 2-5.)

In September and November, 1984, the *contras* stole about 1,500 head of cattle in the region, including some 800 from two state farms in El Toro. (*Id.*, para. 8.)

8. JALAPA

July 1982-June 1983

The "beak of Jalapa" is an area of Nicaragua that juts into and is surrounded on three sides by Honduras. Only an old dirt road connects its rich plains with the rest of Nicaragua.

Because of its geographical situation, this rural area appears easy to isolate. One captured *contra* leader, Pedro Javier Nunez Cabezas, "El Muerto", of the FDN, said,

> "[Our] principal objective was the zone of Jalapa, to declare it a liberated zone and install a provisional government and ask for military aid from friendly governments such as the United States, Honduras and Argentina." (T. Cabestero, "Dieron la Vida por su Pueblo", *El Tayacan*, 1984, p. 8.)

Before July 1982, the region consisted of 120 villages scattered through the mountains and valleys. The town of Jalapa had a population of roughly 9,000, one-fourth of the over-all population of the region. (Affidavit of Sister Lisa Fitzgerald, Exhibit 5, para. 4.)

According to Sister Lisa Fitzgerald, an American nun, who worked in Jalapa, in July 1982:

> "[I]ncursions by '*contra*' bands from Honduras began to make trips into the mountain areas very dangerous. We could no longer travel without an armed escort. After August of that year, travel was made impossible. Several months later, all of us, each nun and priest working in Jalapa, were named on the '*contra*' radio station and threatened if we continued to participate in the national literacy program." (*Id.*, para. 6.)

Thereafter, attacks came with increasing frequency. Based on incidents she and the other nuns and priests in Jalapa had witnessed themselves or could verify by speaking with survivors they knew personally, Sister Lisa testified to some of the events in a two-month period in 1982:

> "September 22. A veterinarian and accountant, both employees of the Ministry of Agrarian Reform, were ambushed near Santa Clara at 5 pm in the afternoon on the road between Jalapa and Ocotal. '*Contra*' forces cut

> their throats. A second vehicle was ambushed minutes later. Five farm workers were wounded. All seven were unarmed.
>
> October 8. Two small store owners were killed in San José. The same group of '*contra*' forces cut off the arm of Angel Valenzuela, a tractor driver in San José, when he refused to surrender his tractor to them. All three were unarmed.
>
> October 15. Cruz Urrutia, a farmer in Siuce, was dragged from his home and his body found a day later, tortured, mutilated and his throat cut. He had been the community's Delegate of the Word, their health worker, and promoter of adult education. His family identified the '*contra*' band who took him.
>
> October 28. Leonilo Marin, a worker, was kidnapped by '*contra*' forces and found later the same day, his throat cut, near his home in German Pomares.
>
> November 15. Celso Mejia, Mauro Mejia, Isidro Mejia and Mateo Calderon, all farmers, were tortured, shot and their heads blown off by a grenade in front of their entire community of La Ceiba which was forceably assembled by a group of '*contras*'.
>
> November 19. Pedro Carazo, Delegate of the Word for his community, was taken from his home in San Pablo by a group made up of '*contra*' forces. His body was found a day later on the path towards Jalapa on the outskirts of San Pablo; his throat was cut and the body half-eaten by dogs." (Fact Sheet Attached to Affidavit of Sister Lisa Fitzgerald, p. 1; *see also* La Estancia chapter.)

During the last two months of 1982, "roughly 400 persons (men, women and children) were forcibly taken to Honduras from the communities of La Ceiba, San Pablo, Las Filas, Zacateras, Terredios, Marcalali, Ojo de Agua and Las Pampas". (*Id.*, p. 2.)

As a result of these attacks and raids, "[n]early all of the mountain communities on the western side of [the] . . . region were abandoned by the campesinos, most of whom fled into the town of Jalapa". (Affidavit of Sister Lisa Fitzgerald, Exhibit 5, para. 7.) By June 1983, the exodus swelled the population of Jalapa from 9,000 to approximately 20,000 as the number of communities in the area shrunk from 120 to fewer than 30. (*Id.*, para. 8.)

Sister Lisa and the other members of the pastoral team in Jalapa kept a journal of *contra* attacks they witnessed or could verify during the first six months of 1983. She summarized its contents:

> "Three of the largest tobacco farms were totally destroyed. Others were partially destroyed by mortar rounds or arson. On two different occasions in April and May I was visiting families of tobacco workers at farms when shelling began. On a third occasion (April 8), I was visiting the hospital in Jalapa when two women and three children were rushed in by jeep; they were the family of a tobacco worker at El Porvenir . . . Their homes had been mortared two hours earlier. All five were filled with shrapnel, particularly the backs of the women who had knelt over the children to protect them. The skull and chest of the one-year-old baby were dotted by shell fragments which I and another sister picked out by hand.
>
> There were 337 abductions from mountain communities or as a result of road ambushes. Of these, 37 persons escaped. I interviewed five of them; all were forced to carry equipment for the '*contras*'. They reported some of their friends were shot immediately after they were abducted and others were taken to Honduras.

> Ambushes on the road to Ocotal increased in number and frequency. On several occasions, all the passengers from the ambushed buses were abducted. In May a group of journalists were ambushed on this road. Since the hospital was over-crowded, we treated the lightly wounded in our home. Four were Americans. Several were European. One Nicaraguan journalist was severely wounded. The attack was by mortar from both sides of the road and took place without warning two miles from the center of town." (*Id.*; *see also* Namash chapter.)

The town of Teotecacinte, population 2,500-3,000, sits on the northern edge of the Jalapa valley, a half mile from the mountains of Honduras. There, from May 22-25 and June 5-22, 1983, the *contras*, shelling the town from two sides, staged an intense attack.

The *contras* were able to take and temporarily hold the border post of Murupuchi and the small border town of El Porvenir and from there "they fired all day, every day" on Teotecacinte. (Affidavit of Wenceslao Ubeda Rivera, Exhibit 4, para. 5.)

> "They attacked with heavy artillery, mortars of 81, 106 and 120 [millimeters]. We calculate that there were about 1,000 [attackers] . . . they fired about 100 mortars each day." (Affidavit of Antonio Valladares Duarte, Exhibit 1, para. 6.)

The town was defended by the resident civilian defense force of 74 plus the 28 army border guards until an irregular fighting batallion could be called up. (*Id.*, paras. 5 and 8.)

During the battle, those who stayed in "Teote" and were not fighting spent their days and nights in the bomb shelters, while food was shuttled in from Jalapa. (*Id.*, para. 9.)

Carmen Gutierrez, mother of five including 4-year-old Suyapa, who was killed on June 9, testified as to the events of that day:

> "[The day] began calmly. They had been mortaring for about eight days in a row, but it seemed like nothing was going to happen. At around 11 am, the girl was playing in the patio. We were confident and let her play because they had spent so many days in the bomb shelter.
>
> All of a sudden, mortars started falling nearby, shaking our wooden, tile roofed, house. One mortar fell near where she was playing . . . Another completely destroyed the latrine. When I heard them, I said to my mother 'gather up the little ones, they're mortaring'. She ran with them to the shelter which was a few meters from the house. When we were all in the [bomb] shelter, my mother asked if any of the children were missing, so we called them by their names. Only Suyapa was missing. I went out . . . Then I remembered that I had seen her playing with a hen. I went there and saw her dead. Her face was blown away but I didn't realize it. I didn't even notice the mortaring. I picked her up and ran away like mad. Then I realized that part of her face was missing. I went back to look and found the piece of her face." (Affidavit of Carmen Gutierrez Castro, Exhibit 2, paras. 3-4.)

Loencia Corea Canelo, who had moved with her husband and seven children to Teotecacinte in 1983 when the *contras* attacked their farm in Guanzapo, also lost a daughter to the mortars:

> "I was making tortillas with my 8-year-old daughter, Concepcion Ubeda . . . to send to [the other children] who were in the shelter. When I heard the mortaring, I took her by the rubber tree and huddled with her.

> A mortar fell behind the ceibo trees . . . and knocked the rubber tree down on the child." (Affidavit of Leoncia Corea Canelo, Exhibit 3, paras. 3-5.)

The child never recovered:

> "After three days, she doubled up on the floor . . . I took her to the command post but she died . . . [that day] she was bleeding from the mouth, the nose, the ears." (*Id.*, para. 4.)

As the seige continued, the people of Teotecacinte fled to Jalapa. Numerous houses were destroyed and many still remain pock-marked with grapefruit-sized holes. By June 15, the entire population, with the exception of about 60 families, had fled to Jalapa. (Journal attached to Affidavit of Sister Lisa Fitzgerald, Exhibit 5, p. 2.)

9. OCOTAL

June 1, 1984

Located near the Honduran border, Ocotal is the provincial capital of Nueva Segovia and, with a population of approximately 21,000, the largest city in northern Nicaragua.

On June 1, 1984, between 4:15 and 4:30 am, *contra* forces operating out of Honduras began an assault on the city. The Nicaraguan government has estimated that the force was made up of 500-600 *contras* divided into different commando units, some of them with special training. They were heavily armed with automatic rifles, mortars, rockets and incendiary materials.

The following description of the attack on Ocotal is based not only on the affidavits of several of the residents of Ocotal who were victims and witnesses, but also on the affidavits of American members of Witness for Peace, a U.S.-based Christian peace organization which maintains a permanent presence in the conflict zones of Nicaragua. Several members of Witness for Peace who were in Jalapa at the time of this attack went to Ocotal immediately after the attack, and, along with some American Catholic nuns living in Ocotal, interviewed victims and prepared their own report. Their findings are contained in the affidavits of Witness for Peace members Sharon Hostetler and Peter Olson, Exhibits 1 and 2 hereto, and in the "Fact Sheet" attached to Peter Olson's affidavit.

One of the points of entry into Ocotal was Barrio Sandino, on the road to Jalapa. Maria de los Angeles Montalvan, who lived in Barrio Sandino, was awakened by the firing at 4 am. Then mortars began to fall. As she cradled her seven-month-old boy, Ezekial de Jesus, in her bed, a bullet ripped through the wall of their wooden shack, shot into her right ankle, exited further up her leg and then entered the baby's leg and lodged in his hip. (Affidavit of Maria de los Angeles Montalvan, Exhibit 5, paras. 2-4.) Because of the attack they could not be evacuated for one-and-a-half hours and, when they were, the truck taking them to the hospital was fired upon, as was the hospital. (*Id.*, paras. 6-9.) She was hospitalized in La Trinidad for 43 days, and was only able to walk on October 11, with crutches. (*Id.*, paras. 15-17.) Her son had to be taken to a hospital in Managua where the doctors were finally able to extract the bullet. Ezekial was left with a 5-inch scar. (*Id.*, paras. 11-14.)

Juana Maria Carcamos also lives in Barrio Sandino. A mortar exploded in her backyard, destroying the outhouse, killing chickens and felling a tree. Three pieces of shrapnel from the blast lodged in her back. Thus far the doctors have been unable to extract the shrapnel. (Affidavit of Juana Maria Carcamos, Exhibit 3.)

Once inside the town, the *contra* forces set about destroying its key civilian and economic installations.

The state-owned lumber mill and processing plant in Barrio Sandino, which produced an estimated 14,000 feet of processed wood daily, was attacked with machine guns, mortars and grenades. Incendiary bombs were then used to set fire and destroy a plane, the saw and conveyor belt, the forklift, the lathe, and the mechanic shop including a small truck, a pick-up truck, two caterpillar tractor motors, one tractor, the electrical system, the welding apparatus and the stock of tools. The total economic damage was estimated at between 10 and 15 million cordobas and an estimated 250 persons were left jobless. (Fact Sheet attached to Affidavit of Peter Olson, Exhibit 2.)

Two days later the remains of the mill were still smoldering and hundreds of bullet jackets were found among the remains. (*Id.*)

At about the same time, administrative offices and a generator of INE, the state-run electricity company, were attacked by a *contra* force using heavy artillery. The offices were destroyed but the generator was not. (*Id.*, and photographs 1-3 attached to Affidavit of Sharon Hostetler, Exhibit 1.)

At 4.45 am the *contras* entered the Pedro Altamirano coffee drying and processing plant across from the INE, using mortars and heavy-gun fire. According to a report given by the security guard at the plant, his work partner,

> "Eusebio Quadra, 55-year old, was attacked by gun fire as he ran towards the office building. He exited from the back of the office but died almost immediately. He left a pregnant wife and eight children as well as other dependents. The other security guard was injured but survived." (Fact Sheet attached to Affidavit of Peter Olson, Exhibit 2.)

The *contras* completely destroyed the office building, the machinery, nearly two tons of coffee and a part of the cement court used for drying coffee. (*Id.*, and photographs 4-7, attached to Affidavit of Sharon Hostetler, Exhibit 1.)

At about 4.30 am, the *contras* attacked the offices housing Radio Segovia, the Sandinista Youth and the local Sandinista Defense Committee (CDS) in a residential area near Ocotal's central plaza.

Genaro Paguaga Reyes, a watchman on duty at the radio, was about 25 meters from the offices when he heard shooting. He ran towards the radio where he saw about 25 armed, blue-uniformed FDN men in front of the offices. Four of the men turned at him and started firing, yelling "Long live the FDN". Paguaga was able to dive into a nearby discotheque and make his getaway later in the ensuing crossfire. (Affidavit of Genaro Paguaga Reyes, Exhibit 7.)

Ramon Gutierrez was already in the broadcast booth with his colleague Edmundo when they heard firing first in the streets and then in the adjacent offices. While the other radio employees were able to flee through the rear, they stayed in the booth, unseen by the *contras*, while the intruders set fire to the building. When the cabin itself caught fire, Gutierrez and Edmundo were forced to evacuate it but were able to leave without being seen. (Affidavit of Ramon Gutierrez, Exhibit 6.)

When the *contras* had retreated, the radio installations had been destroyed, including microphones, tape recorders and typewriters. (Affidavit of Genaro Paguaga Reyes, Exhibit 7, para. 7.) Workers returning to the smoldering radio station also found the burned and mutilated bodies of 19-year-old Juan Carlos

Mendoza of the Sandinista Youth and Julio Tercero of the CDS, whose body had its entrails and liver cut out. (*Id.*, para. 8.)

Osmar Amaya, a dental technician whose home and office face the radio station, was four blocks away when he heard the shooting. Racing home, he saw that the station was in flames and the *contras* were moving in. As he climbed up to enter his house, the *contras* fired on him. A bullet entered through his back and went out his thorax, breaking four ribs and entering his lung. He lay by his door unconscious for almost two hours until neighbors could evacuate him to the hospital. He was then taken to the hospital in La Trinidad where he spent one month. He still has shrapnel in his forehead which the doctors were unable to remove. (Affidavit of Osmar Amaya Morales, Exhibit 8.)

The *contras* also attacked six grain storage silos on the outskirts of town. These silos were the principal storage sites for the department of Nueva Segovia and contained nearly 1,500 tons of rice, beans, corn and sorghum.

The members of Witness for Peace who visited the affected sites in the days following the attack, made the following report on the granary, based on their interviews with eyewitnesses and an on-site inspection:

> "A *contra* force entered the granary at about 4.30 am. They shot one of the watchmen on duty, and then launched a fierce attack on the silos and installations. After all six silos were destroyed they set fire to the grains. The value of the destroyed silos, augers and conveyors was approximately one-and-a-half million cordobas. Grains that were lost: corn 6,950 quintales; beans 4,650 quintales; rice 2,475 quintales; sorghum, 323 quintales. Also lost were 150 quintales of powdered milk, and small amounts of soap, cooking oil and salt. According to CEPAD [Evangelical Committee for Aid and Development], at least 10 houses in the surrounding barrio were seriously affected by the attack." (Fact Sheet attached to Affidavit of Peter Olson, Exhibit 2; *see also* photograph 8, attached to Affidavit of Sharon Hostetler, Exhibit 1.)

The religious team also reported these other incidents:

> "Marvin Jose Lopez, the director of IRENA (Ministry of Natural Resources), was shot by *contra* forces while driving through the town in the early morning to pick up workers who were going to plant trees in the reforestation project. The *contras* fired at the truck, killing Lopez and shattering the glass and tires. The three woman workers in the back of the truck survived the attack, sustaining minor abrasions. José Lopez left behind a wife and three young children.
>
> At the offices of INRA (Ministry of Agrarian Reform) two trucks were completely destroyed by bullets and shrapnel.
>
> According to a nurse who was on duty at the Ocotal hospital during the attack, the *contras* fired at the hospital and several bullets entered the nursery and women's ward. This report was verified by a patient in the women's ward. Pictures were taken of the bullet holes in the windows and door. No one was wounded." (Fact Sheet attached to Affidavit of Peter Olson, Exhibit 2.)

Before leaving Ocotal, the *contras* left behind "Freedom Fighter's Manuals", subtitled "A practical guide to free Nicaragua from oppression and misery by paralyzing the military industrial complex of the traitorous and sell-out Marxist state without using special tools and with a minimum of risk for the combatant."

(Affidavit of Peter Olson, Exhibit 2, para. 13 and Exhibit B.) The comic book-style manual, which US intelligence sources and the FDN have identified as produced by the CIA, gives suggestions on ways in which people can sabotage the Nicaraguan economy, such as by leaving lights and faucets on, making phony reservations, breaking windows, cutting wires and sabotaging roads and vehicles. Instructions are provided on how to puncture tires, cut electrical wires, plug toilets and destroy roads. ("CIA Linked to Comic Book for Nicaragua", *New York Times*, Oct. 19, 1984, p. A-8.)

Another pamphlet was left showing pictures of FDN leaders and urging the people to join them. (Affidavit of Reyna Isabel Umanzor, Exhibit 4, para. 5.)

The attack lasted several hours, trapping most residents in their homes. When the *contras* finally retreated, at about 10 am, seven civilians had been killed and many more wounded. (Fact Sheet attached to Affidavit of Peter Olson, Exhibit 2.)

10. RANCHO GRANDE

March 25, 1983

Dr. Pierre Grosjean, a French physician, came to Nicaragua in August 1982 as part of a cooperation agreement between a French medical school and the medical school in Leon, Nicaragua. His participation was financed by the French Foreign Ministry. (Affidavit of Zino Bisoffi, Exhibit 2, incorporating "Pierre Grosjean Medicin au Nicaragua" [Bisoffi, "Grosjean"], p. 22.)

After teaching a course in tropical medicine in Leon, studying malaria among workers and miners, and conducting an evaluation of the tuberculosis vaccination program in Chinandega, Dr. Grosjean went to the Matagalpa region to study lesmianosis, or mountain leprosy, a disease endemic to the coffee pickers of the zone. (*Id.*, p. 19.)

On March 24, 1983, Dr. Grosjean arrived in Rancho Grande, a small town on the road between Matagalpa and Waslala, to begin his research along with William Morales and Idalia Castro, microbiologists from the University of Leon, Maria Felisa de Solan, a French-Argentine doctor in charge of epidemiology for the Matagalpa-Jinotega region, and Zino Bisoffi, an Italian doctor. (Affidavit of Maria Felisa de Solan, Exhibit 1, para. 3.)

On the morning of March 25, the doctors

> "were already awake but on our matresses when at 5.30 am we began to hear shots and shouting like military orders. Later, the people told us that the *contras* had entered, yelling 'Get out, we're going to burn the town' but I didn't hear that." (*Id.*, para. 6.)

The doctors dressed hurriedly in their wooden house in the local office of the national coffee company, and lay on the floor. (*Id.*, para. 3.) Dr. Solan remembers that when the attack was at the heaviest,

> "Pierre [Dr. Grosjean] said to me 'You assured me that we would be out of danger here'. It's true that I told him that — that in Rancho Grande we would be as safe as in Matagalpa, because that's what I believed." (*Id.*, para. 9.)

According to Dr. Bisoffi:

> "At about twenty to six we heard a very, very loud noise, like a bomb which shook the whole house. When it was over — it only lasted an

> instant — I got up to see the others, to speak with them a little, to see what had happened. For two or three minutes we didn't realize that Pierre had been hit by a bullet; he remained lying there, he didn't budge; we thought it was for safety reasons, that he was afraid. After three minutes, Idalia saw blood, and we jumped to see what was wrong. We took his pulse, and we could still feel it, but it was very weak and it soon stopped." (Bisoffi, "Grosjean", Exhibit 2, p. 3.)

Dr. Grosjean was not the only casualty of the attack. When the firing stopped at about 7.30 or 8, the doctors went out and saw that much of the town, totally built out of wood, had been destroyed and that four others had died, including the leader of the local chapter of the national women's organization. Seventeen people were injured including seven children and four women. One of the children had to have his leg amputated. (*Id.*, and Affidavit of Maria Luisa de Solan, Exhibit 1, paras. 14 and 18.)

The doctors set up a makeshift hospital in the local store, a building which offered some security, and gave first aid with the little medicine they had brought or found on hand. (*Id.*, para. 16.) An hour later, an army battalion arrived from Waslala — too late. The soldiers carried the wounded off to Waslala and Matagalpa. Then helicopters arrived to take Dr. Grosjean's body and the most seriously wounded to Managua. (*Id.*, para. 17.)

Dr. Bisoffi remembers:

> "Although [the townspeople] had their dead and wounded, they were extremely sad over Pierre's death, it was incredible. We were all well known, Pierre particularly . . . they were all sorry, everyone in the village came to console us, while they had their own dead and their own wounded." (Bisoffi, "Grosjean", Exhibit 2, p. 6.)

11. EL COCO

December 18, 1983

One of the first resettlement cooperatives established in Nicaragua was the Augusto Cesar Sandino cooperative, known to most people as "El Coco", along the upper Rio Coco about 13 miles south of Quilali in the province of Nueva Segovia.

El Coco was founded in 1980 on land formerly owned by General Anastasio Somoza. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 3; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 3.) Its 680 acres, in a fertile valley, were well suited for the growing of basic products — corn and beans — and provided good land for the formerly landless peasants of the area. (Affidavit of Carmela Gutierrez, Exhibit 1, paras. 2 and 4; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, paras. 2 and 4.) The houses of the cooperative were built with roofs donated by the Bishop of Esteli. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 6; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 6.)

After the cooperative received legal status in 1982, the majority of the people who came to live there were refugees from *contra* attacks further north, by the Honduran border. (Affidavit of Carmelo Gutierrez, Exhibit 1, para. 5; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 5.)

Throughout December 1983, the residents "knew that the *contras* were in the zone. They had a permanent presence and we didn't feel at ease." (Affidavit of Carmela Gutierrez, Exhibit 1, para. 7; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 7.)

At 9.30 am on December 19, the *contras* crossed a sorghum field and began attacking the cooperative. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 8; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 8.)

Carmela Gutierrez, the head of the local women's organization, was in her house preparing food when the attack came. She picked up her rifle and went to the trenches that had been prepared by the members of the cooperative to protect themselves against such attacks. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 9.) Her husband, Wenceslao, did the same. (Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 9.) The children of the cooperative, together with many of the women, ran to the bomb shelters where more than 100 of them huddled. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 10; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 9.)

The *contras*, mortaring from a nearby hill, surrounded the cooperative on three sides. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 11; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 10.) Carmela Gutierrez testified:

> "The mortars flew as if they were stones. They began to infiltrate into the cooperative shouting for us to give up, saying that they were going to eat us alive." (Affidavit of Carmela Gutierrez, Exhibit 1, para. 12.)

After local resistance by civilian defenders was overcome, and those in the shelters fled, the *contras* entered the cooperative and killed 14 people. One eyewitness, the evangelist Arturo Marin, told Carmela Gutierrez that Juana Maria Santos Ramirez, age 15, was raped as was Maria Cristina Espinoza, age 16 or 17. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 14.) This was confirmed by a captured *contra* leader. (Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 14.) The evangelist Marin also reported that an elderly woman, Julia Sanchez Hernandez, and Marco Antonio Mendieta, a doctor from Leon, were literally cut to pieces. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 14.)

Two girls, Petronila Ramirez Zavala, 12, and Juana Francisca Ramirez, who were hiding under their bed, were shot when the *contras* entered their house. (Affidavit of Wenceslao Peralta Herrera, Exhibit 2, paras. 12 and 13.) Their grandmother was shot in the arm but survived. Altogether, six people from the Ramirez family died. (*Id.*, para. 13.) Aurelio Espinoza Sanchez, 60, his wife Julia, and their two sons were also killed. (*Id.*, para. 19.)

When the survivors returned, they found that the cooperative had been totally destroyed, including the food warehouses, the machinery and the tractors. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 17; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 15.) In addition, each of the 12 abandoned bomb shelters had been mortared and destroyed. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 18.)

After the attack, the families took refuge in Quilali, in the school and the Baptist church. Others live in nearby San Bartolo, where they have been given some land. (Affidavit of Carmela Gutierrez, Exhibit 1, para. 19; Affidavit of Wenceslao Peralta Herrera, Exhibit 2, para. 18.)

The attack on El Coco is also reported in the *Atlanta Constitution*, April 18, 1984, p. 1A (Nesmith, "*Contras* Bring Terror to Valley in Nicaragua"). This report, based on interviews with survivors, recounts in detail the killing, rape and mutilation of civilians and destruction of the cooperative decribed above. It also reports that officials of the FDN "acknowledged that their men attacked and destroyed the cooperative". (*Id.*, p. 38A.)

12. EL JICARO

October 1982-October 1984

The northern region of El Jicaro-Murra, covering three towns and hundreds of small mountain communities, has been the scene of numerous *contra* attacks since 1982.

"The results of these attacks," says Father Evaristo Bertrand, an American parish priest in the region, "have been hundreds of deaths and thousands of displaced people, including those who were taken off to Honduras as well as those who were forced to move to larger or safer places because of attacks or the danger of attacks." (Affidavit of Father Evaristo Bertrand, Exhibit 2, para. 34.)

One of these incidents occurred on October 28, 1982, when five armed men dressed in blue FDN uniforms broke down the door of the house where Maria Bustillo, 57, was living with her husband, Ricardo, a Delegate of the Word, and five of their children. (Affidavit of Maria Bustillo Viuda de Blandon, Exhibit 3, paras. 3-5.) The intruders ordered everyone to the floor, face down, and warned that whoever moved would be killed. After striking Ricardo and kicking the children, they tied them up two by two and led them away, telling Maria, "Careful you old bitch, you're going to find out tomorrow". (*Id.*, paras. 6-11.)

When Maria went out the next morning to look for her family, she found her five children dead, about 50 yards from the house. "They were left all cut up. Their ears were pulled off, their throats were cut, their noses and other parts were cut off." (*Id.*, para. 14.) Her husband Ricardo was found dead in a nearby town along with another man, Raul Moreno. "They were also left broken up. He had false teeth and they took them, his arms were broken and his hands were cut up." (*Id.*, para. 16.)

After the massacre, Maria took refuge in El Jicaro. (*Id.*)

The town of El Jicaro itself was attacked twice, on April 21, 1983 and August 24, 1983. During the first attack, the *contras* fired 87 mortars but were unable to penetrate the town, though one farmer had his throat slit, others were wounded and one man was kidnapped. (Affidavit of Father Evaristo Bertrand, Exhibit 1, paras. 6-12.) The attack occurred while mass was being held in the church, and many town residents spent the night there. (*Id.*)

The second attack on El Jicaro began at 5.15 am with mortar fire. One resident, Marco Sevilla, a father of eight, upon hearing the firing, tried to leave his house to help in the town's defense, but his family would not let him go. Telling them that he would not let the *contras* kill him disgracefully in his house unarmed, he went out the back way toward the command post to get his gun. (Affidavit of Aracelis Torres Aguilar, Exhibit 4, paras. 6-7.) Before he could get far from the house, however, the *contras* caught him and cut his throat with a bayonet. (*Id.*, paras. 9-10.) One other man, Chilo Toruno, from Jalapa, was killed. (Affidavit of Father Evaristo Bertrand, Exhibit 2, paras. 14-19.)

Straddling the intersection where the main Segovias road from Ocotal and Santa Clara to Quilali forks off to El Jicaro is the town of Susucayan. In the early morning of October 11, 1984, the *contras* attacked the town with mortars, machine guns and rifle fire. (Affidavit of Lucio Rodriguez Gradis, Exhibit 3, in Telpanaca Chapter, para. 35; Affidavit of Emelina del Carmen Merlo, Exhibit 8, para. 3.)

Emelina del Carmen Merlo, a health worker, hid in her house. When the attack died down at about 6.40 am, she tried to get to the health center to attend any dead or wounded but the firing began again and she took refuge in a private home. When the firing stopped again at 7.30, she got what she needed from the health center and set up a first-aid center in the middle of town. (Affidavit of Emelina del Carmen Merlo, Exhibit 8, paras. 1-6.) Three men died, Pedro Gomez, Juan Tomas Ruiz and Eusebio Rodriguez, Delegate of the Word and community leader, who was a refugee from the north. (*Id.*, para. 9; *see also* Affidavit of Patricio Ruiz Peralta, Exhibit 9.)

That same morning, the *contras* passed through the nearby community of Las Brisas, just outside the resettlement cooperative of La Jumuyca. At about 1 am, eight of them entered the house where Abraham Gutierrez, 66, was dying of a liver infection. (Affidavit of Dora Gutierrez de Altamirano, Exhibit 11, paras. 2-5; Affidavit of Antonio Olivas Zarante, Exhibit 12, para. 2.) They demanded that Gutierrez' daughter, Dora, go with them, but she refused. Instead, they took an older man, Antonio Velasquez, who returned shortly thereafter since he was of no use to them. (Affidavit of Dora Gutierrez de Altamirano, Exhibit 11, paras. 2, 7.)

About an hour later, Gutierrez, the sick man, died (*id.*, para. 8) and his son Felipe went to La Jumuyca to report on the incident and find a coffin. While in a house nearby, some 200 *contras* ordered him and Antonio Olivas to go with them or be shot. (Affidavit of Antonio Olivas Zarante, Exhibit 12, paras. 3-5.) Olivas was ordered to carry one of their wounded. (*Id.*, para. 6.) The *contras* also captured Francisco Lopez about 200 yards on. (*Id.*, and Affidavit of José Reynaldo Jiron, Exhibit 10, para. 5.)

Lopez quickly escaped, but after several hours of walking, the other two were put to work. (Affidavit of Antonio Olivas Zarante, Exhibit 12, paras. 7-8.) While the *contras* were resting, Olivas was able to escape as well, but Felipe, the dead man's son, is still missing. (*Id.*, paras. 9-10, Affidavit of Dora Gutierrez de Altamirano, Exhibit 12, para. 12, and Affidavit of José Reynaldo Jiron, Exhibit 10, para. 8.)

In October 1984, shortly before 5 am, the *contras* came to the home of Luis Cardenas in El Pie de la Cuesta, between El Jicaro and Murra. Cardenas, 40, was a bricklayer and farmer. Accusing him of being an agent of state security (he was not) the *contras* demanded entry into Cardenas' house. When he refused, according to his widow Maria Julia:

> "They broke down two doors and a window with rifles and three armed men, with olive-green uniforms, entered the house . . .
>
> They grabbed my husband and they beat him and broke his neck with a rifle. Then they took him out of the room by one of the doors which was destroyed and they bashed in his head with a rifle and they took out his eye.
>
> Then they threw him on the floor and they tied his hands and they cut his throat with a bayonet. He screamed and fought . . . and said that he didn't do anything wrong, but they wouldn't let him speak and put a green cloth in his mouth." (Affidavit of Maria Julia Ortiz, Exhibit 13, paras. 6-7.)

They left him dead, shirtless and shoeless, in the street. (*Id.*, para. 12.) Maria Julia was hiding under the bed with one of her three children and, during the incident, the *contras* did not see her. When the child cried out "my daddy", however, they spotted her and tried to take her away. When she refused, they beat her on the head, leaving her lying on the bed, unconscious. (*Id.*, paras. 9-11.) Then they left, after stealing all the clothes and the utensils in the house. (*Id.*, para. 12.) That same day, they also kidnapped Maria Julia's second cousin from the same community. (*Id.*, para. 15.)

As a result of the attacks in the north, many refugees had populated resettlement cooperatives ("asentamientos") around El Jicaro, where they were given land and fields to plant. One of these cooperatives, Las Dantas, was itself repeatedly attacked in the first part of 1984, however. (Affidavit of Father Evaristo Bertrand, Exhibit 2, para. 24; Affidavit of Maria Soza Valladares, Exhibit 14, para. 2; Affidavit of Aurelia Ortiz Chavarria, Exhibit 15, para. 2; Affidavit of Jose Inez Castellano, Exhibit 17, para. 2; Affidavit of Presentacion Picardo Garcia, Exhibit 1, para. 2.) Most of the families were therefore forced to move again, to the Santa Julia cooperative, just outside the community of San Gregorio.

On October 29, 1984, the refugees were attacked yet again. In an early morning attack on the Santa Julia cooperative, the *contras* launched a mortar which landed in the cooperative's headquarters where three families were living. Maria Soza Valladares was sick in bed, but all her children were in the middle of the room "as if they were waiting for the mortar" — which killed Martha Azucena, 11-years old, Carmelita Azucena, 5, and Ronald Miguel, 3. Another child, Alexis, 8, was severely injured and died on the way to the hospital. (Affidavit of Maria Soza Valladares, Exhibit 14, paras. 9-16.) Maria Soza, herself injured, tried to rescue her dead and dying children, but it was too late. Her daughter Maria, 6, covered with blood, walked all the way to the health center in San Gregorio through the ensuing crossfire, despite the wounds she had all over her body. Eventually, she and her mother spent almost a month in the hospital, where she was operated on twice. (*Id.*, paras. 11-12, 17.)

Aurelia Ortiz, eight-months pregnant, was also in the room with her children when the mortar exploded, killing José Rodolfo, 5, and Maura de Jesus, 7. (Affidavit of Aurelia Ortiz Chavarria, Exhibit 15, para. 5.) A month later, she gave birth to a still-born child. (*Id.*, para. 7.) Not including the stillborn, six small children died from the mortar.

Kidnappings continue to occur frequently. Father Bertrand testified that it would be "impossible" to keep track of all of them. (Affidavit of Father Evaristo Bertrand, Exhibit 2, para. 34.)

> "The people in my area are now accustomed to the war. They are cautious as night comes on and as dawn breaks, but they have learned to live with it. They participate in their own defense because they know its not play. As a rule, we don't go from town at night." (*Id.*, paras. 35-36.)

13. JACINTO HERNANDEZ COOPERATIVE

December 16, 1983

On December 16, 1983, at 4.45 am, the *contras* launched an attack on the cooperative Jacinto Hernandez in El Cedro, between San José del Bocay and El Cua in Northern Jinotega. The cooperative was just getting underway, on land that had been abandoned. It had over 100 people, but was still mostly pastureland and cows. (Affidavit of Maria Angela Diaz Montenegro, Exhibit 1, paras. 9-10.)

When the attack came, Angela Diaz Montenegro was at home with her eight children. Some months earlier she and her family had come to the cooperative, abandoning the 17 acres of land they had bought, because of constant threats against her husband, a local civilian leader, and fear for the safety of her young children. (*Id.*, paras. 4-8.) Angela's 16-year-old daughter and 13-year old son grabbed guns to try to repel the attackers while Angela and the younger children joined two other families in the bomb shelter near the house. When the *contras* entered the cooperative, however, the families took off, half-naked, for the hills nearby. (*Id.*, paras. 12-16.)

From the hills, they could see and hear the *contras*, using machine guns and mortars, take the cooperative against the defense of only 12 coop members. (*Id.*, paras. 18, 21.) In their hiding place, one of the attackers' bullets struck and killed Angela's 11-year-old daughter Marta Rosalba. (*Id.*, paras. 19, 21.) Rather than attending to the dead child, Angela tried to calm the others so that they would not scream and attract the *contras'* attention. Even after the one-hour battle was over, the *contras* continued firing in the direction of the family. (*Id.*, para. 20.)

When they could, the family headed toward a neighbor's house. There Angela learned that her two children who had been fighting — her 16-year-old daughter and 13-year-old son — were dead, along with five others from the cooperative. (*Id.*, para. 27.) The *contras*, she was told, had also burned down her house, as well as several other houses, the health center, the warehouse for basic foodstuffs, a tractor, two trucks and several animals. (*Id.*, para. 29.) Two women from the cooperative were kidnapped but thereafter returned. (*Id.*, paras. 30-31.)

Angela and her surviving children took refuge in El Cua, but four days later that town was attacked as well. As the families took refuge in the church, the *contras* were fought off. (*Id.*, para. 37.)

Angela now lives in Jinotega but says she is tormented by those attacks.

> "Every noise I heard, I thought was gunfire. The Frente [Sandinista] sent me to see a doctor in Managua because I couldn't eat or sleep, thinking about what happened. I was going crazy . . . Now I'm better, only sometimes I get a case of nerves when I hear that someone died or that there was combat." (*Id.*, paras. 34-35.)

14. NORTHERN JINOTEGA

January 1982-November 1984

The mountainous area in the north of Jinotega province — the municipalities of El Cua, Bocay, Yali and Wiwili — has been a principal area of *contra* activity since the beginning of the war. This chapter describes just a few of the many attacks on civilians in this area. (See also the chapters on Jacinto Hernandez Cooperative, El Castillo Norte, La Sorpresa and Ambushes in Cua.)

One cooperative alone, "German Pomares Ordonez", near Las Delicias, has been the target of eight attacks. (Affidavit of Inocente Peralta Zamora, Exhibit 1.) One such attack took place in mid-April, 1984. A Nicaraguan helicopter flying over the cooperative was attacked by the advancing *contras*, tipping off the townspeople, but the *contras* were able to take away several members of the cooperative. (*Id.*, para. 22.) Inocente Peralta, 58, a Delegate of the Word (lay pastor), was one of those who went looking for the missing:

> "We found [Juan Perez] assassinated in the mountains. They had tied his hands behind his back. They hung him on a wire fence. They opened up his throat and took out his tongue. Another bayonet had gone in through his stomach and come out his back. Finally, they cut off his testicles. It was horrible to see." (*Id.*, para. 22.)

Peralta was told that six others had been found in similar condition, including one whose heart was cut out. (*Id.*, paras. 23-24.)

Other attacks in this area over the last three years include the following:

> On January 12, 1982, in the area of Las Colinas, Jeronimo Lopez's private vehicle with 15 civilian passengers was ambushed by a group of about 100 counter-

revolutionaries. Eight of the passengers, including an eight-year-old girl, were killed. (Affidavit of Terencio del Jesus Flores Hernandez, Exhibit 4, paras. 3-5.)

On January 22, 1982, a group of about 80 *contras* staged a 5 am attack near La Pavona, surrounding several houses. One landowner, Manuel Alfaro Palacios, was taken out of his house and led to a nearby creek where the *contras* sat him down and shot a bullet into his head. Another man, Norberto Mairena, was killed by a grenade. The residents fought back but when the battle was over three campesinos were dead, and many others were forced to leave their homes. (*Id.*, paras. 7-16.)

One night in May, 1982, the *contras* came to the house in Guapinol where Adrian Ferrufino was visiting Tomas Huetes and his family. Huetes had no political position but was working to build a school and bring a teacher to his community. (Affidavit of Adrian Ferrufino Siles, Exhibit 2, para. 7.) The intruders knocked at the door and said that if Huetes did not open up, they would shoot. (*Id.*, para. 3.) As Huetes went to open the door, Ferrufino slipped out the back. From there he could see the *contras* tying up Huetes, and he ran further away. (*Id.*, para. 4.)

When Ferrufino returned in the morning, he found Huetes' dead body, its tongue cut up, its eyes cut up, three stab wounds in the chest. (*Id.*, para. 5.) Huetes' wife, who was in a state of shock, told Ferrufino that the *contras* had done all of that in front of her and the children and that when she pleaded with them to leave him alone, they told her, "Shut up you bitch. We're going to kill you too because this son of a bitch is a rabid dog." Although she insisted that he was not a Sandinista but a simple campesino, they killed him and threatened her that if she told anyone what had happened they would kill her and her children. (*Id.*, para. 6.)

Later, when Ferrufino became active in the distribution of basic products and in school construction in his community in Penas Blancas, the *contras* began to look for him as well. Once they told a campesino that they were looking for him to kill him (*id.*, para. 9), and they twice came to his house looking for him (*id.*, paras. 10-11). As a result, he was forced to move to Jinotega, and has left his farm in the care of a friend. (*Id.*, paras. 11-12.)

On April 25, 1983, in the zone of Villagual, north of Yali, a group of 500 counterrevolutionaries swooped down on Terencio de Jesus Flores and Fermin Valenzuela, two organizers of the National Union of Ranchers and Farmers (UNAG) who were working in the zone. They captured Valenzuela but Flores escaped. (Affidavit of Terencio de Jesus Flores Hernandez, Exhibit 4, para. 18.) The next day, Flores returned to the spot: "We found Fermin dead with his eyes gouged out as if with a bayonet and a stab wound in the throat and with a liquid in the face which left him burnt." (*Id.*, para. 19.)

In September 1983, some 200 counterrevolutionaries attacked the town of Bana, killing five people including an 18-month-old girl who was in her house when a bomb landed. (Affidavit of Augusto Cesar Barajona Valladares, Exhibit 3, paras. 6-8.)

The town of Wamblan was attacked in the early morning of December 19, 1983, by a group of over 400 *contras*. Although the attack was repulsed by border troops in the town, two women and two children were killed when a grenade landed in the unfinished bomb shelter in which they had hidden. (*Id.*, paras. 10-11.)

In February, 1984, the *contras* attacked the cooperative in Mollejones, less than two miles from the Honduran border, killing five people and wounding a 13-year-old boy with a bullet in the eye. (*Id.*, para. 12.) Also in February 1984, the *contras* attacked the cooperative Georgino Andrades at 3 am, leaving three dead and five wounded. (*Id.*, paras. 14-15.)

On March 23, 1984, the *contras* burned the house of Irma Pineda, and killed her son, in the La Rica sector. The same day, they killed Manuel Gomez and burned his house, as well as the house of Jesus Mendoza and a truck carrying food estimated to be worth 1.5 million cordobas. (Affidavit of Terencio de Jesus Flores Hernandez, Exhibit 4, paras. 30-32.)

On April 8, 1984, the *contras* attacked the Las Colinas coffee growing cooperative, some 8 or 10 miles from the town of Yali. The farmers could not hold off the 400 *contras*, who came with mortars, grenades, rifles and machine guns. (Affidavit of Doroteo Tinoco Valdivia, Exhibit 5, paras. 4-8.)

The attackers soon had the cooperative encircled and, after two hours, they sent in one company to take it by assault. (*Id.*, para. 11.) As the cooperative's defenders retreated, three of them were killed, but the others were able to make their way out, as were most of those in the bomb shelter. (*Id.*, paras. 11-13.)

When the army arrived, at about 9 am and the people returned to the cooperative:

> "They [the *contras*] had already destroyed all that was the cooperative; a coffee drying machine, the two dormitories for the coffee cutters, the electricity generators, seven cows, the plant, the food warehouse.
>
> There was one boy, about 15-years old, who was retarded and suffered from epilepsy. We had left him in the bomb shelter.
>
> When we returned . . . we saw . . . that they had cut his throat, then they cut open his stomach and left his intestines hanging out on the ground like a string.
>
> They did the same to Juan Corrales who had already died from a bullet in the fighting. They opened him up and took out his intestines and cut off his testicles." (*Id.*, paras. 13-16.)

On September 15, 1984, Nicolas Chavarria, 15, and Marcelino Herrera were killed. According to their neighbors, they were taken from where they were working and brought to Villagual where they were killed. (Affidavit of Terencio de Jesus Flores Hernandez, Exhibit 4, para. 26.)

On October 9, 1984, in La Pavona, near Yali, the *contras* killed Nortie Torres, José Navarrete Cruz, 30, Miguel Navarrete Cruz, 15, José Herrera and Inocencio Mejia, all campesinos. Their throats were slit and they had stab wounds in their bodies. (*Id.*, paras. 22-23.) At the same time seven others were kidnapped. All of the kidnappees escaped and reported that they were tied up and beaten on the head. (*Id.*, paras. 24-25.)

On November 7, 1984, 15 campesinos, including girls of 11- and 12-years old, were kidnapped seven miles from the town of Yali. Seven of them, including the girls, have escaped. (*Id.*, para. 28.)

As a result of these attacks and many others, numerous producers in Northern Jinotega have been forced to abandon their lands and move in to the town where they could live in greater safety. (Affidavit of Terencio de Jesus Flores Hernandez, Exhibit 4, para. 30; Affidavit of Augusto Cesar Barahona Valladares, Exhibit 3, para. 17; and Affidavit of Inocente Peralta Zamora, Exhibit 1, para. 4.)

15. BERNARDINO DIAZ OCHOA COOPERATIVE

November 18, 1984

The Bernardino Diaz Ochoa Cooperative was 16 kilometers from Waslala, in the province of Matagalpa. On July 19, 1984, a truck from the cooperative, carrying 40 unarmed members, was ambushed near Guabo. The shooting lasted an hour-and-a-half, until an army unit came to chase the attackers away, and by the time it was over, Josefina Picardo, 29 and pregnant, Ricardo, 17, and José Perez, 6, were killed, and 14 people were injured. (Affidavit of Balbino Garcia Lopez, Exhibit 5, paras. 3-10.)

On November 18, the cooperative itself was attacked at 5 am by a group of about 250 *contras* armed with machine-guns, rockets, mortars and rifles. (*Id.*, paras. 13, 15.) As the women and children fled to the road, the 12 civilian defenders in the cooperative tried to hold off the attackers. (*Id.*, paras. 13, 16.) The *contras* took the village about 500 yards from the cooperative, and went from house to house burning them down. (*Id.*, para. 16.) Then they began to take the trench where the defenders were, killing three of them, before the rest were able to retreat. (*Id.*, paras. 18, 19.)

The next day, when the people returned to their coop, they found three children burned to death in their house: Josefina, 6, Rosealba, 4 and Albertina, 2. All the houses of the village were burned as was the whole cooperative including the main house, the machines and the animals. (*Id.*, paras. 21-22.) One woman, Elda, 18, had been taken away by the *contras*. (*Id.*, para. 25.) As a result, the members of the cooperative have had to move to another coop. (*Id.*, para. 24.)

16. SIUNA

August 1982-November 1984

The rural zone of Siuna, in Northern Zelaya, has about 25,000 inhabitants, most of whom live and farm in the hills. In 1981, the area consisted of 58 communities. There are now only 47, however, the remainder having been attacked by the *contras* and destroyed. (Affidavit of Father Enrique Blandon Vasconcelos, Exhibit 1, para. 2.)

Father Enrique Blandon Vasconcelos, the area's parish priest, testified about some of the attacks in his parish:

> In August 1982, the *contras* attacked the Umbla cooperative of 40 families, killing one child and wounding three and causing the coop to shut down. (*Id.*, para. 5.)
>
> In March 1983, 130 *contras* invaded a cooperative of 90 families in Kaskita. They asked the leader, Miguel Martinez, to talk to them, but shot him in the back and head. They then gathered the families and threatened them if they continued to work in the coop. As a result, all those families, too, left for safer places. (*Id.*, paras. 6 and 8.)
>
> In August 1983, the *contras* attacked the El Ocote cooperative, killing six people including three women, two men and a child. They then robbed the cooperative and destroyed the school and the community house. (*Id.*, para. 9.)
>
> At the end of January, 1984, Candido Jarquin Jarquin of Kurrin was killed. (*Id.*, para. 10.)
>
> At the same time, the lay pastor Bernardino Sanchez of Los Baldes was kidnapped, managing to escape after 15 days. (*Id.*, para. 11.)
>
> On February 8, 1984, the catechist Fermin Cano was detained and his life threatened. (*Id.*, para. 12.)

> On February 15, 1984, 7 people were kidnapped from Waspadito. (*Id.*, para. 13.)
>
> On February 16, 1984, Esteban Galeano was killed in Alo Betel. (*Id.*, para. 14.)
>
> On June 10, 1984, at a time when most of its defenders were away, the Waslalita cooperative was attacked by at least 600 *contras*. One 14-year-old boy and one adult were killed, and three were injured. In May, the cooperative had also been attacked, but no deaths resulted. (*Id.*, para. 15.)
>
> In June, 1984, 28 men were kidnapped from El Guayabo and are still missing. Only women and children remain in that community. (*Id.*, para. 16.)
>
> At the end of June, 1984, 13 families were kidnapped, including the Evangelical pastor, from the community of San Pablo-Asa. (*Id.*)
>
> On June 14, 1984, Victorino Martinez Urbina was taken from his house in Cuicuinita and was cut into pieces with a machete. (*Id.*, para. 17.)
>
> On July 19, 1984, a truck from the cooperative El Naranjo-Iyas was ambushed and Javier Torres was killed. (*Id.*, para. 20.)
>
> Around the same time, the Delegate of the Word of Sarawas, Eusebio Perez Hernandez, was kidnapped. After a week, during which he was made to carry a heavy backpack, he was able to escape. (*Id.*)
>
> On August 15, 1984, more than 50 people were kidnapped from Waspuco Abajo. (*Id.*, para. 21.)
>
> On August 22 and 23, 1984, the *contras* passed through El Guayabo, stealing food, shoes and boots. (*Id.*, para. 23.)
>
> On August 26, 1984, Ancleto Palacios was killed with a machete by a *contra* group in La Union-Labu. (*Id.*, para. 22.)
>
> On September 12, 1984, the catechist Abelino Acuña, education coordinator, disappeared. (*Id.*, para. 24.)

The *contra* attacks have also disrupted the economic life of the region. The road connecting Siuna with Matagalpa has been the scene of many ambushes, which often are directed against trucks carrying food shipments. (Affidavit of Sister Sandra Price, Exhibit 2, para. 5; Affidavit of Father Enrique Blandon Vasconcelos, Exhibit 1, para. 26.) Numerous health workers and school teachers have been kidnapped. (Affidavit of Father Enrique Blandon Vasconcelos, Exhibit 1, para. 26.)

The *contras* have harassed and threatened Father Blandon himself. In late January, 1984, when he was leaving the community of Kurrin with two nuns, he was stopped by a group of 1,800 heavily-armed *contras* whose path he crossed. (Affidavit of Father Enrique Blandon, Exhibit 1, para. 29.) Some of them claimed to be Honduran and wore Honduran uniforms. (*Id.*, para. 32.) They made him get down from his mule and began interrogating him, calling him a communist and telling him that they "blow the heads" off priests who preach politics. (*Id.*, para. 30.)

Because some of the *contras* knew Father Blandon and, he believes, because of the presence of the nuns, the *contras* let him go. (*Id.*, para. 31.) Later, the *contras* told local church leaders that if they ran into Father Blandon again, they would kill him. (*Id.*, para. 34.) Then, in September, 1984, when he was in the community of Baka, Father Blandon received a note warning him that if he arrived in Luku Paraska his head would be blown off because he was preaching politics and communism. (*Id.*, para. 35.)

Because of the threats, Father Blandon renounced completion of his rounds (*id.*, para. 36), and in late September it was decided that Sister Sandra Price, an American nun, would go to visit some mountain communities accompanied by two Delegates of the Word (Affidavit of Sister Sandra Price, Exhibit 2, paras. 8, 9).

When Sister Sandra got to the community of Umbla, a commando unit of about 50 *contras* arrived and questioned her at length about Father Blandon, accusing her of lying when she said he was not with them. Finally, the commando left. (*Id.*, paras. 13, 14.)

Then a second commando unit came and took away a young married couple accompanying the Sister to Siuna. When Sister Sandra objected, the leader said that if the couple did not go voluntarily, he would have them tied up and taken away. They never returned. (*Id.*, paras. 15 and 16.)

A few hours later, after the Sister had left town, four *contras* from the same group caught up with her and this time took away the catechist who was accompanying her. He never returned. (*Id.*, para. 18.)

In Cucuina Grande, a river village, yet another commando unit forced the Sister and the two campesinos who had joined her to disembark in a house and held them there all night. The leader interviewed the Sister and boasted of all the aid that the United States had airlifted to them. (*Id.*, para. 20.) In the morning, the Sister was released but the fate of the two campesinos is unknown. (*Id.*, paras. 21 and 24.)

Florencio Godinez, a Delegate of the Word in Trignitara, had long received threats for having worked in literacy programs and for forming a credit and service cooperative. In June 1984, when the *contras* began to operate in his zone, he learned that a family was forced to give them the names of church and cooperative leaders, including his. Some friends then advised him to leave the area, and he did so on July 3. (Affidavit of Florencio Godinez Perez, Exhibit 5, paras. 2-4.)

The next day, the *contras* came to Godinez' house. They held his daughters and daughter-in-law there for a day before leaving, promising to return. The whole family then decided to leave, giving up the cows, pigs, chickens and 17 acres of land they held. (*Id.*, para. 4.)

On July 24, the *contras* went to the house of Godinez' married daughter in Salto Verde and grabbed her husband. When the two tried to flee, Godinez' daughter was shot and killed. (*Id.*, para. 5.) (Godinez was not an eye-witness to these two incidents; his daughters described them to him.)

Cirilo Jarquin, a Delegate of the Word, was walking near his home in Coperna on June 23, 1984, when he crossed paths with four *contras*. (Affidavit of Cirilo Jarquin Mejia, Exhibit 4, para. 4.) "You're coming with us", they said. The leader added, "Rabid dog, you're not going to escape. They call us beasts and it's true. We don't have pity for any rabid dog." (*Id.*, para. 7.) Although he was warned that "the slightest move" he made to escape, "[he would be] blown into the air" (*Id.*, para. 15), Jarquin was able to run away after spending a day with his captors.

The Siuna region was particularly hard-hit during October and November 1984.

On November 20, ten *contras* arrived at night, firing, at Gregorio Davila's house in Coperna Abajo. Davila's son Danilo, age 4, and his six-day-old baby boy were sleeping. Another son, 8, was with his father. Upon hearing the shooting, Carmen, the mother, hid under the bed. Twelve-year-old Luz Marina, who clung to a wall, testified:

> "The first shot hit my father and the same bullet entered my 8-year-old brother's leg. Another bullet killed my 4-year-old brother in bed. My mother was wounded in the head. . . . Two *contras* entered the house and demanded that my father give up his gun but he hadn't one in the house. They shot Eulalia Cano Obando, 18 [my uncle Porfirio's girlfriend]. . . . The *contras* grabbed my father and my uncle [Porfirio]. They shot my father 4 times

> and when he didn't die they cut his throat. My uncle died from one shot. Another *contra* came in and said of Eulalia: 'That fuck is the sister of the rabid dog Mariano Cano', and shot her again." (Affidavit of Luz Marina Davila Valle, Exhibit 12, para. 2.)

The *contras* then left. Luz Marina's wounded mother sent the surviving children to an uncle's house. When they returned the next morning, their mother was dead. They went back to their uncle's house but, when they returned to their house that afternoon, the bodies were no longer there. (*Id.*, para. 2.)

Three days later, the bodies of their father, uncle Porfirio, Eulalia, four-year-old brother and mother were found in the river. Their mother's face was skinned and she and Eulalia were left naked. (*Id.*, para. 3. *See also* Affidavit of Father Enrique Blandon Vasconcelos, Exhibit 1, para. 25.)

Other incidents in those months included:

> On October 13, a group of about 45 *contras* came at 7 am to Valeriano Polanco's basic products post in the community of Fonseca and stole sugar, boots and other products. (Affidavit of Valeriano Polanco Lopez, Exhibit 6.) They then took Polanco and some 30 other campesinos with them. They marched all day until they arrived near Siuna's landing-strip where, after night fell, the *contras* fired on the nearby homes with rifles and mortars. (*Id.*)

Douglas Spence, an American working with Witness for Peace, United States-based Christian peace group, was in Siuna when the firing began. He testified:

> "We heard hundreds of rounds of automatic gun fire, answered by slightly more distant fire. The shooting lasted about half-an-hour culminating in three loud mortar rounds.
>
> . . . The four of us huddled on the living-room floor waiting to see what would happen next." (Affidavit of Douglas Spence, Exhibit 3.)

Two days later, Spence visited one of the affected neighborhoods:

> "We saw the holes in the zinc roofs where people told us bullets had entered the night of the attack. we also saw three mortar craters, one within 50 feet of a little house, where the *contra* rounds had landed.
>
> Fortunately, no one was injured or killed in the attack". (*Id.*)

> In the community of Uly, 50 *contras* surrounded a house on October 23, taking away six people on a three-day trek to Comenegro. (Affidavit of Pablo Perez Landeros, Exhibit 8.) Pablo Perez Landeros, who escaped, saw 200 other hostages who, the *contras* said, were being taken to Honduras. (*Id.*)
>
> On October 28, ten *contras* arrived at the house of Pablo Perez Tercero in El Corozo. They tied up Perez Tercero and his brother and took them to where they are already holding their father and two other brothers. (Affidavit of Pablo Perez Tercero, Exhibit 9.) After being handed over to another *contra* group, and held for 20 days along with ten other hostages, he began to run away. Realizing that he was fleeing, the *contras* fired upon him, but he made it safely out of danger. One of his brothers also managed to escape but they have not heard from their father or the other two brothers. (*Id.*)
>
> On October 28, in the community of El Dorado, the *contras* captured Leontes Velasquez, President of the local Electoral Board, and Eladio Rodriguez, Board Secretary, who had arrived in town by mule for a meeting held in preparation for the November 4 elections. The two were taken to where the *contras* were holding 40 others from El Dorado and then on to Monte de Oro, San Pablo de Asa and Lawas-Corozo. There, while the guard was not watching,

Rodriguez escaped by throwing himself into the river. (Affidavit of Eladio Rodriguez Flores, Exhibit 10, para. 2.)

On the night of November 4, two *contras*, pretending to be Nicaraguan soldiers, came to Cristobal Grenado's house near Uly and told him and a friend that they had to go to guard the nearby cooperative. By the time they realized the trick, they were already being taken to a hill where they were made to spend the night. At 5 am there was an attack on the cooperative and at 9 am the *contras* brought the two down to the cooperative where other captives were being held. After walking seven hours they were held under surveillance for 22 days, with little to eat, before Grenado and a friend were able to escape into the mountains. (Affidavit of Cristobal Grenado Perez, Exhibit 11.)

On November 26, the cooperative in Floripon was attacked by a *contra* force of about 120 with mortars, rockets, machine-guns and rifles. Because the 125 women and children of the cooperative took refuge in the shelters they had built in case of attack, only one cooperative member, a civilian defender, died in the fighting. After the *contras* left, however, an unexploded grenade was found and mishandled. It exploded, killing one woman and injuring 13. (Affidavit of Felix Arauz Mendoza, Exhibit 7.)

17. SAN JERONIMO

May 16, 1984

In the valleys of a mountainous region 30 kilometers northeast of Condega, in the Department of Esteli, lie numerous small farming villages. Until May 16, 1984, many of the residents of these valleys were organized in the agricultural cooperative "Heroes and Martyrs" of Canta Gallo near the village of San Jeronimo.

On May 15, 1984, some campesinos from the valley noticed "something very strange — an airplane passed overhead flying very low . . . and dropped munitions to the *contras*". (Affidavit of Ismael Cordoba Centeno, Exhibit 12, para. 2.)

The next day, a *contra* task force invaded the valleys, attacking the communities of Santa Ana del Ojoche, Los Planes, Buena Vista, La Montañita, Robledalito and San Jeronimo.

In each community the story was similar: the outnumbered civilian defenders offered what resistance they could while the population was evacuated. When they were overcome, the *contras* entered the community and burned down the houses.

At about 6 am, the *contras* attacked Los Planes. The local residents fled on foot to the community of La Laguna. (Affidavit of Angela Zamora Aguirres, Exhibit 13, paras. 2-3.) According to the local offices of the Sandinista Front, when the *contras* entered the town they burned the houses of Juan Simon Herrera, Maximo Monzon, Prudencio Herrera, Alejandro Artela, Loaquin Artela and Amado Rodriguez. (*El Nuevo Diario*, May 23, 1984.)

At around 9 am, the *contras* took positions on the hills around El Robledalito. The families were notified to leave because the village was not prepared to defend itself against such an attack. Filemon Zavala Cruz had the responsibility of moving the families out of the community and toward San Jeronimo. From San Jeronimo, the families fled to La Laguna. (Affidavit of Filemon Zavala Cruz, Exhibit 3.)

Once again, the *contras* set fire to the houses — this time 17 of the 20 houses were burned. (Affidavits of Filemon Zavala Cruz, Maria Sabina Galeano and Maria Anita Hernandez de Martinez, Exhibits 3, 7 and 11.) These included the houses of Victor Obregon, Carmelia Olivas, Cosme Cardenas, Visitacion Martinez, Luis Galeano, Nicomedes Galeano, Santos Cardenas, Filemon Zavala, Rene Martinez, Luis Martinez, Pedro J. Zavala, Isabel Galeano, Macario Rivera, Manuel Ortez, Marceliano Martinez and Luis Alfonso Cardenas, as well as the school. (*El Nuevo Diario*, May 23, 1984.) The local priest, who visited the village after the attack, testified: "in Robledalito, the only thing you can see now is burnt rubble, burnt cans". (Affidavit of Father Enrique Alberto Oggier Rufiner, Exhibit 10, para. 9.)

La Montanita was attacked shortly thereafter. José Ramon Castillo was working, getting the corn ready for planting, when he heard that the *contras* were coming. He got his rifle in case there was to be any attempt to defend the town. But the *contras* were advancing from two sides and he and his friends saw that they were vastly outnumbered and that any defense was hopeless. They concentrated instead on getting the people out of the village to El Bramadero. (Affidavits of José Ramon Castillo, Filemon Zavala Cruz and Eusebia Matey Lopez, Exhibits 2, 3 and 5.)

When the *contras* had left La Montanita, "the houses and everything having to do with corn were left burned". (Affidavit of José Ramon Castillo, Exhibit 2, para. 9.) The burned houses belonged to Juan Flores, Angelica Flores, Demetrio Galeano, Marcelino Cruz, Humberto Flores, Antolin Galeano, Reynaldo Perez, Estanislao Castillo, San Flores, Rosalio Flores, Modesta Cruz and Francisco Corrales. (*El Nuevo Diario*, May 23, 1984.)

Finally, the *contras* attacked the main cooperative Canto Gallo in San Jeronimo, which provided work for many of the people of the valleys. The cooperative — which, according to the managers, produced 120,000 pounds of coffee in the last year, as well as cattle — "was left totally destroyed. Only ashes remained. It was a very important cooperative for the people of the zone, especially the poor." (Affidavit of Father Enrique Alberto Oggier Rufiner, Exhibit 10, para. 10.)

In one day, hundreds of valley residents became refugees. That night, some 600 homeless people, mostly women and children, arrived in the town of Condega where they slept on the floor of the parish's communal house. They were then moved to the grammar school where they stayed another week. (*Id.*, paras. 5-7; Affidavit of Angela Zamora Aguirres, Exhibit 15, para. 4; Affidavit of Maria Sabina Galeano, Exhibit 7, para. 6; Affidavit of Maria Anita Hernandez de Martinez, Exhibit 11, paras. 4-5.)

Today, many of the families live in overcrowded conditions with friends or relatives in Condega, having lost their land and possessions. In her crowded house in Condega, Angela Zamora says "We never went back to see our house [in Los Planes]. They told us it was burned. We had animals, chickens, turkeys, pigs. We had corn. The riches of the poor." (Affidavit of Angela Zamora Aguirres, Exhibit 15, para. 6.)

Ismael Cordoba Centeno, also living in Condega, had 60 acres of land, but now "the beans, coffee, rice and everything we had is gone". (Affidavit of Ismael Cordoba Centeno, Exhibit 12, paras. 1, 5.) Maria Espinoza Zavala, whose son was kidnapped in February 1984, had 17 acres of land in Santa Ana del Ojoche. Her family's houses there and in Los Planes were burned. (Affidavit of Maria Espinoza Zavala, Exhibit 14, paras. 2, 6.)

Flora Cordoba Centeno's house was not burned, but she is afraid to go back even though she needs the corn that was left in Los Planes. (Affidavit of Flora Cordoba Centeno, Exhibit 13, para. 4.) Maria Anita Hernandez had "a little land [in Robledalito] but it was enough to support ourselves". Now she and her husband and 12 children are staying with a family in Condega. (Affidavit of Maria Anita Hernandez, Exhibit 11, paras. 3, 6.)

In nearby Los Potreros, the *contras* broke into the home of Maria Guadalupe Rodriguez and Etemina Rodriguez on June 19, 1984, stealing a radio, clothes and 2,000 cordobas. Later that day, the *contras* kidnapped seven people, including their brother and sister. The sister was released immediately, but the brother did not return for a month. The same day, the *contras* killed Reynaldo Olivo and Laureano Flores, for whom the new cooperative is named. (Affidavits of Etemina Rodriguez, Exhibit 4, and Maria Guadalupe Rodriguez, Exhibit 1.)

These refugees were dealt another blow in mid-August. The lumber mill in the valley community of El Bramadero, where wood was being cut and prepared to build new houses for the refugees, was destroyed by the *contras*. "With this burning, we have another delay, and the people will have to wait much longer [for new housing]." (Affidavit of Father Enrique Alberto Oggier Rufiner, Exhibit 10, para. 12.)

The burning of the valley communities was the worst attack in the region, but there have been others. At the end of September, the huge grain silos in Palacaguina — which, according to the government, stored 90,000 pounds of rice, 180,200 pounds of corn, 27,400 pounds of beans, 17,400 pounds of salt and 50 crates of soap (*Barricada*, September 24, 1984) — was "totally destroyed by the counterrevolutionaries. I visited it the next day and saw how the people were trying to gather up the little that remained." (Affidavit of Father Enrique Alberto Oggier Rufiner, Exhibit 10, para. 13.) On other occasions the *contras* have raided towns and kidnapped civilians. (*Id.*, para. 3.)

Says Father Oggier,

> "The people of my parish are afraid. I am afraid, too. They tell me that I should not go out alone, only with a soldier. I don't go out at night to visit the communities. I always return earlier. At night I stay in my house." (*Id.*, para. 14.)

18. EL CASTILLO NORTE

May 15, 1984

After the 1979 revolution, many farms under government control (formerly the property of General Somoza) were consolidated into state farms ("Unidades de Produccion Estatales", or "UPEs") or cooperatives. These farms, which often serve as social service centers in their zone, have been frequent targets of *contra* attacks.

One such attack took place on May 15, 1984, against the UPE El Castillo Norte, 65 kilometers north of Jinotega. It was a small farm with only 60 adults and their children. At approximately 11 am, a band of about 300 *contras* invaded the farm, overwhelming the 14 civilian defenders, and killing 20 people, kidnapping others, destroying the farm and its facilities and forcing the survivors to flee.

When the attack began, most of the unarmed members of the farm ran for the shelter they had built. As the battle raged, however, the shelter, too, was attacked by mortar fire. An 87-year-old woman, Vicenta Castro, was killed by one of the mortars, and the others fled. (Affidavit of Lucilia Echevarria Lanza, Exhibit 7, para. 5; Affidavit of Olivia Benavides Meza, Exhibit 2, para. 2.)

Rosa Sobalvarro, a 15-year-old, three-months pregnant civilian defender, was shot. She lay on the ground pleading for water and begging her fleeing mother not to leave her. Her mother was unable to help, however, and when she returned the following day, Rosa's "breasts were cut to pieces, her throat was cut. The poor girl was destroyed." (Affidavit of Cristovalino Sovalbarro, Exhibit 4, para. 5; see also Affidavit of Olivia Benavides Meza, Exhibit 2, para. 3.)

Lucilia Echevarria Lanza, a mother of four who lost one son and one cousin, and whose father received a shrapnel wound, recounted what she saw after fleeing the shelter, helping her father and Ramon (Moncho) Castro, an injured civilian defender:

> "When we got to the front of the store, they were chopping up a 'compa'. They had ripped out a bone and were tearing him apart. When we got closer, one of them grabbed a piece of his flesh and threw it in my face, saying, 'Maybe you're the mother bitch'.") (Affidavit of Lucilia Echevarria Lanza, Exhibit 1, para. 6.)

They passed by Francisco Castro, Moncho's brother, who

> "was filled with stab wounds . . . They hit him and blood flew and he was left standing as if lifeless. Then they killed him with a stick in his mouth." (*Id.*, para. 7.)

Another civilian defender, Rene Amador, "was carried off . . . They broke his arms and tortured him to death." (*Id.*, para. 8.) Another, Jesus Hernandez, "Chuno", who had been kidnapped previously but had escaped, was killed and then chopped up and burned. (*Id.*, and Affidavit of Abrahan Castro, Exhibit 3, para. 6.) Another was castrated. (Affidavit of Olivia Benavides Meza, Exhibit 2, para. 3.)

As Lucilia was helping Moncho, one of the *contras* hit him with the butt of his gun, then cut him with his bayonet and began to suck his blood, saying to Lucilia:

> "'Look bitch, this is thirst, this is the water we drink, the blood of these rabid dogs sons of bitches' . . . Then he took the blood and smeared it on me [saying] 'auntie, how tasty, bitch'. He shoved it in my mouth and made me drink it. Then he bathed the head of a little boy I was leading with the blood." (Affidavit of Lucilia Echevarria Lanza, Exhibit 1, para. 9.)

Lucilia was then separated from Moncho, who was killed, and she fled with her father and daughter, but not before being bathed in gasoline (*id.*, para. 12), as well as threatened and taunted (*id.*). When the battle was over, the entire farm was burned and destroyed, including the store, the office, the children's center, the center where the food was stored, the land and all the houses. (Affidavit of Abrahan Castro, Exhibit 3, para. 9.) Other coop members were killed, and some were kidnapped (*see id.* and Affidavit of Lucilia Echevarria Lanza, Exhibit 1, para. 16.)

Lucilia Echevarria was relocated to the UPE La Colonia, but she is not well. "I can't sleep with the light off . . . because I see everything" that happened that day. (*Id.*, paras. 17-18.) She also lost all her possessions. "We had our own house in the UPE. We had pigs, chickens, everything. The children ate. Now we have what people can give us." (*Id.*, para. 19.)

Like Lucilia, some of the survivors were relocated in La Colonia. Others were taken to nearby Abisinia and others to the farm La Fondadora. Maria Castro, who lost her mother Vicenta in the attack on the shelter, as well as her three sons, Francisco, Ismael and Ramon (Moncho), now lives in a shack on the outskirts of Jinotega with her daughter and her sole surviving son. Her house and adjacent land were burned, along with about 4,400 pounds of corn, beans and coffee. (Affidavit of Maria Castro, Exhibit 6, paras. 3-4; Affidavit of Carmen Castro, Exhibit 5, para. 4.) "Before, food was never lacking . . . we gave it away. Now, without my sons, without the land, we hardly have anything." (Affidavit of Maria Castro, Exhibit 6, para. 4.)

PART III. AMBUSHES OF CIVILIAN VEHICLES

19. SAN JUAN DE LIMAY

(Sister Nancy Donovan)

January 8, 1985

The town of San Juan de Limay in the province of Esteli has been the scene of numerous *contra* attacks in late 1984 and early 1985. Nancy Donovan, an American Maryknoll nun, who is a missionary assigned to the town, testified that between mid-December 1984 and mid-January 1985, almost 40 civilians were killed in the attacks. "The attacks have been made on civilian, not military, targets and they have been increasing." (Statement of Sister Nancy Donovan, attached to her affidavit, Exhibit 1, p. 5.)

On January 8, 1985, Sister Nancy herself was detained and held captive by a group of *contras*.

That morning, at about 6 am, she left town to attend a clergy meeting of the Diocese of Esteli which had been called by the Bishop. To get there,

> "I had to search for a ride in a private vehicle since the town's only bus had been burnt by counterrevolutionary forces on Dec. 9th and now there is no public transportation. I found a ride with a refugee family which had been displaced by a counterrevolutionary attack on a village on the outskirts of Limay on Dec. 27th. This family was transporting their few belongings to Esteli. An 18-year-old boy also had asked to be taken in the same pick-up truck. All were civilians and unarmed." (*Id.*, p. 1.)

After driving four miles, they saw a tractor in the middle of the road.

> "Five armed men in blue counterrevolutionary uniforms with FDN marked on their uniforms came from behind the tractor and stopped our truck. They made us leave the vehicle and we joined about 25 civilians who were being held in a gully by the side of the road. After about 10 minutes they told us we could continue on our way." (*Id.*)

After traveling another two-and-a-half miles, Sister Nancy decided to return to Limay via back paths to warn departing vehicles of the danger. She got out of the car, which continued on towards Esteli. After walking a little over a mile:

> "I was stopped on the path by 2 armed men in FDN uniforms. They asked me where I was going and I told them to Limay. They spoke on walkie-talkies for some moments and then told me I could go no further and must stay in their custody. They directed me to a stone wall where there were more armed, uniformed men, about 20 in all . . . I was held there for

> approximately 3 hours. During that time 3 or 4 peasants and a woman and child also were stopped on the path and held with me. At about 8 am I heard some gunfire from the old road where we had initially been stopped. There was a long wait of over an hour. Then I heard very loud automatic machine-gun fire and heavy artillery coming from Loma Atravesada which is further along the road to Esteli. I prayed for the lives of those who were involved." (*Id.*, p. 2.)

The *contras* then separated Sister Nancy from the three civilians, whom she never saw again. Despite her requests to leave, they marched her for another five miles, joined by 20 more *contras*, until they came to a group of still 20 more. There she was held for almost an hour while the *contras* "were boasting about the success they had had in the ambushes on the road". (*Id.*, p. 3.)

The 60 men who were now holding Sister Nancy

> "were well armed and equipped. One of the men wore an arm patch which said 'Soldier of Fortune, Second Convention'. Another had 'US Army' written on the front of his uniform. They showed me their new knapsacks and told me they had received new equipment recently. They told me that their supplies are dropped by planes which 'fly very quietly at night'. They hope that they would be receiving new supplies that night to replenish the ammunition they had used that day." (*Id.*, p. 4.)

Sister Nancy again attempted to leave and was again prevented until four FDN leaders showed up.

> "These 4 men began to interrogate me about my work and identity. They searched my belongings and began to read my address book. After some time of discussion among themselves on the walkie-talkie they told me that I could go. I estimate that this was about 3.30 pm." (*Id.*)

After returning to Limay on horseback, Sister Nancy

> "quickly found out that 14 civilians had been killed by the FDN forces in different ambushes along the roads to Limay that same day. Nine were construction workers ambushed in Loma Atravesada. 2 workers from the Ministry of Natural Resources, 2 young coffee pickers, and a tractor driver were killed along the road to Pueblo Nuevo. I saw 4 tractors which were destroyed. At least 10 persons were kidnapped, but there may be more. I also found out that the original vehicle in which I had been traveling had been stopped again by the FDN forces after I had left it to walk back to Limay. The 18-year-old youth, Freddy Castellon, had been kidnapped.
>
> We spent that night and the next day washing the bodies of the dead, comforting families and praying with them, and burying the dead from Limay." (*Id.*, pp. 4-5.)

20. CEPAD/TELCOR AMBUSH

September 1, 1984

On September 1, 1984, Jorge Barrow, an agronomist with the Evangelical Committee for Aid and Development (CEPAD), a private religious developmental agency, left Puerto Cabezas in Northern Zelaya in the organization's Toyota pick-up truck to drop off five workers in Sumubila. They picked up about 10 hitch-hikers, including a pregnant woman and some children. (Affidavit of Federica Alvarez Johnary, Exhibit 1, para. 5; Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 3.) Barrow, Federica Alvarez and her 45-day-old child, and a nurse rode in the front and the others in the back. Everyone in the pick-up was a civilian and no one was armed. (Affidavit of Federica Alvarez Johnary, Exhibit 1, paras. 4-5; Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 4.)

As they passed a telecommunications company (TELCOR) pick-up, parked where men were working on the line, they heard a bomb and then rockets and machine-gun fire from the left of the road. (Affidavit of Federica Alvarez Johnary, Exhibit 1, para. 5.)

Federica Alvarez had just finished breast feeding her baby and was burping her when the shots destroyed the window of the truck and covered them with shrapnel. (*Id.*, para. 10.) Barrow, the driver, kept going, driving with one hand as he tried to get glass out of his eyes with the other. (Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 6.)

Heavy fire landed in the back of the pick-up, lifting it off the ground. Barrow, looking in the rear view mirror, saw everyone on the floor and thought they had all been killed. (*Id.*, paras. 8-9.) In the cabin, the baby was bleeding and the mother crying. (*Id.*, para. 8.)

They kept going until they reached the entrance to the Columbus settlement. (Affidavit of Federica Alvarez Johnary, Exhibit 1, para. 11; Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 10.) When Barrow was told that one of those in the rear, Alfredo Bushie, had been shot but was still alive, he drove on to the health center in Sumubila. (Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 11.) There, Bushie, age 20, died immediately. (*Id.*, para. 12.)

The baby and her mother were sent to the hospital in Rosita but the car taking them there lost control and Federica's sister-in-law, who rode with her to hold the blood serum, was injured as well. (Affidavit of Federica Alvarez Johnary, Exhibit 1, para. 12.) The three were then transferred to Puerto Cabezas and ultimately sent to Managua. There, two delicate operations were performed on the baby, one on her intestines which had been pushed into her stomach by the impact of the shrapnel, and a week later another on her lung where the largest piece of shrapnel was lodged. After 26 days in the hospital, she was left with large scars and is in constant pain, unable to eat or sleep well. (*Id.*, para. 15.) The mother still has shrapnel wounds, and her right hand, which often falls asleep, cannot exert force. (*Id.*, para. 16.) The sister-in-law is still in the hospital. (*Id.*, para. 17.)

The *contras* also killed six or seven of the TELCOR workers (Affidavit of Federica Alvarez Johnary, Exhibit 1, para. 13 [6 dead]; Affidavit of Jorge Barrow Vicente, Exhibit 2, para. 17 ["about 7"]). Barrow saw the bodies when they were brought to the Sumubila health center. "Some had their heads bashed in, another had its forehead bashed in, one boy had his intestines out, others had their arms as if ground up." (Affidavit of Jorge Vicente Barrow, Exhibit 2, para. 17.)

21. AMBUSHES IN EL CUA

October 1984

In October 1984, Anibal Gonzalez, the alternate president of the Zonal Electoral Council for the Cua region for Nicaragua's November 1984 elections, suffered two ambushes while on electoral duty. The first time, he was traveling in a military truck from San José de Bocay, where there had been a *contra* attack the day before, to El Cua, when 80 *contras* ambushed the truck, killing one man and wounding three others. (Affidavit of José Anibal Gonzalez Lopez, Exhibit 2, paras. 5-9.)

Eight days later, Gonzalez was traveling from El Cua to San Jose de Bocay to drop off ballot boxes, ballots and other electoral material. He was riding in an ambulance, along with six others, as part of a caravan including four trucks from the Ministry of Construction that were going to drop off provisions in Bocay. (*Id.*, para. 11.) Almost everyone in the caravan was armed. Gonzalez testified, "I want to emphasize that I am a civilian. If I go armed it's because in my zone, that's how one has to go." (*Id.*, para. 20.)

When they got to Frank Tijerino Valley, some 100 *contras* ambushed them with machine guns, mortars and rifle fire from a distance of only 50 yards. (*Id.*, para. 12.) Everyone leaped from their vehicles. Gonzales tried to get the ambulance driver, who had been shot in the head, rear and arm, out of the line of fire, but in doing so Gonzalez himself was shot in the ankle. He fell but was able to crawl to the hills with the ambulance driver. (*Id.*, para. 13.)

Seven of the passengers were injured in the attack and one was killed before reinforcements came to drive the *contras* away. (*Id.*, para. 19.) Gonzalez had to spend 22 days in hospital and was replaced in his electoral functions by Brigido Vargas Herrera. (*Id.*, paras. 15 and 18.) At the end of October, however, Vargas was kidnapped in the Valley of Los Angeles while attending his daughter's funeral. (*Id.*, para. 19.)

Part IV. Kidnappings

A. Individual Kidnappings

22. SIX EXAMPLES

This chapter describes six individual cases of civilians kidnapped by the *contras* and taken to or toward Honduras in an attempt to forceably recruit them into the *contra* forces.

William Santiago Vasquez

William Santiago Vasquez is now 13-years old. He was 12 in December 1983, when he was kidnapped together with his father, Gregorio Vasquez, as they were leaving Ciudad Antigua, Nueva Segovia, where his father taught a course. A band of 170 *contras* came to the town that day. One part of the band attacked the town while the other kidnapped William and his father along with two other men. The four were taken to a hill where William was separated from the other three. (Affidavit of William Santiago Vasquez, Exhibit 1, para. 6.) William later learned that all three, including his father, were killed that day. (*Id.*)

The next day, William was taken to the *contra* camp "La Union", still in Nicaragua, where he was kept for 15 days. There were about 400 men there, including 5 other kidnappees. William worked there as a cook's aide. (*Id.*, paras. 8-9.)

Next he was taken 10 kilometers by foot to the "La Lodoza" camp in Honduras:

> "There were about 800 men there and about 50 people who had been kidnapped, men, women, old people, children, who were families which had

> been kidnapped from Chinandega, Matagalpa and other villages and towns. There were about 100 Honduran soldiers there, they were the ones who gave the orders.
>
> I was there about a month. I was trained by the Hondurans. There were also Nicaraguans there who were kidnapped and who were now part of the 'Guardia' [so-called because a number of *contra* leaders once belonged to Somoza's National Guard].
>
> I was trained in how to use a rifle and heavy artillery, then in ambush and counter ambush. The training was dreadful; if you didn't participate, you didn't get any food that day.
>
> Sometimes 'gringos' would come to take pictures, they would come as civilians. About five gringos came." (*Id.*, paras. 10-13.)

After about a month, William was able to escape along a river and, after walking three days, made it back to Nicaragua. He now lives in Ocotal. (*Id.*, paras. 14-18.)

Antonio Espinoza Morales

On October 23, 1984, two armed men entered the house near El Jicaro where Antonio Espinoza, a 32-year old farmer, was sleeping. They ordered him to leave: "You're going to march. We're the FDN." (Affidavit of Antonio Espinoza Morales, Exhibit 2, para. 5.) When Espinoza told them he was sick — with a bad heart and nerves — they told him to get moving and added that they had medicine for him. (*Id.*, paras. 6-7.)

The two men and their prisoner then joined a group of 30 or 35 other *contras* who had seven or eight other captives, and were taken on a march of five to six days to Honduras, through the hills, sleeping outside and eating little. (*Id.*, paras. 10-11.) The hostages were made to carry the *contras'* cargo. Espinoza carried a back-pack with ammunition. (*Id.*, para. 12.)

When they arrived at the Las Vegas base in Honduras, where there were about 1,000 men, the captives were split up. Espinoza stayed about two kilometers from the base, sometimes helping the cook with chores. (*Id.*, paras. 15-17.)

After 43 days, Espinoza and some 34 others were sent back into Nicaragua, and he was given a blue FDN uniform and a rifle which he did not know how to use. (*Id.*, paras. 23 and 24.) On the way back, he was able to make his escape between the guards while the group was sleeping. (*Id.*, para. 26.)

Espinoza testified that he will continue to work his fields but is moving closer to El Jicaro where he feels safer. (*Id.*, para. 30.)

Ernesto Pineda Gutierrez

Ernesto Pineda Gutierrez, a 43-year-old coffee farmer, has been kidnapped twice. The first time, in September 1983, ten armed men came at 1 am to the house in La Pavona, Jinotega, where he and his family were sleeping. They said they had orders to take Pineda and his niece Julia to their leader, because they supposedly worked with the army and had guns in their house. Pineda denies this. (Affidavit of Ernesto Pineda Gutierrez, Exhibit 3, paras. 4-6.)

The two were taken about three kilometers to a house in the mountains where the *contras* were holding another 20 kidnapped campesinos. There, the leader told them that "they were going to kill us, that they weren't going to waste bullets but would hang us". (*Id.*, paras. 7 and 8.) But they let Julia go and, after an eight-hour march through the mountains, with Pineda protesting his "innocence", they let him go as well, telling him that "this time they would let us go but if we went around talking, they would behead us, hang us". (*Id.*, paras. 9-13.) Some of the other campesinos never returned. (*Id.*, para. 14.)

The next time, on October 28, 1984, Pineda was running an errand with his brother when he ran into a group of 80-100 armed men leading 15 kidnappees.

> "They ordered us to go with them, without telling us why they were taking us. They only told us that they had orders to kidnap people, whoever they might be, because they had orders from their leaders." (*Id.*, paras. 15-18.)

The group, with 23 kidnappees in all, including women, children and older people and Pineda's 14-year-old nephew and two cousins, went to a farm where they met other *contra* groups, 300 men in all, holding other hostages. From there, the different groups set out separately on the same road, telling their captives, "We're not letting anybody go, and don't try to escape because if someone escapes and we find that person, we'll cut his throat". (*Id.*, paras. 20-22.)

Pineda's group walked three days through the mountains, with the captives carrying the *contras'* backpacks, until they reached a mountain house where they stayed locked in for two days.

> "They told us that they were taking us directly to Honduras for training. . . . They said that there in Honduras there were guards to train us and that we would return armed to Nicaragua to kill and kidnap more people. They told us not to say that we were forced to go because they would kill us in Honduras if we said that." (*Id.*, paras. 23-28.)

After another day's walk, Pineda decided to try to escape. The next morning, while the *contras* were awaking, he and his nephew went out as if to urinate and were able to flee unnoticed. (*Id.*, paras. 29-31.) His cousins still have not been heard from. (*Id.*, para. 32.)

Because the *contras* threatened to kill the deserters, Pineda has moved to Jinotega where he feels safer. There he has no work and is receiving support from cousins. (*Id.*, paras. 33-34.)

Moise Fajardo Sambrana

Moise Fajardo was at his mother-in-law's house near Zungano, in Nueva Segovia, on September 2, 1984, when three armed *contras* came to the door and asked him to guide them because they did not know the area. When he said that he did not know it either, they told him that he had to come with them anyway. (Affidavit of Moise Fajardo Sambrana, Exhibit 4, para. 3.)

Joining up with a larger group of about 30 *contras*, they made Fajardo carry a heavy backpack on a 28-day trek through the hills towards Honduras, threatening that if he tried to escape, he would be killed. (*Id.*, paras. 4-12.)

Fajardo was able to escape before the group got to Honduras, however, and after a three-day walk found his way back home. (*Id.*, paras. 13-15.) He is afraid to live there now, however, and says he will move to a safer place. (*Id.*, para. 16.)

José de la Luz Padilla Rojas

At midnight on August 17, 1984, an armed *contra*, leading four kidnapped civilians, three with their hands tied, entered José de la Luz Padilla Rojas' house in Las Minitas in the Paiwas region and forced him out at gun-point. "When I left the house, he told me to get with the tied-up people and not to move. He told me that if I moved, or ran, he would shoot me." (Affidavit of José de la Luz Padilla Rojas, Exhibit 7, para. 3.) They were joined by three other *contras* who had burned two other houses and were leading three other kidnappees, including Padilla's two adopted sons. Each of the *contras* unloaded a magazine (20 shots) in the air by the hostages' heads "until we were deaf" (*id.*, para. 6), and then led them out of the town. When one of the men whose hands were tied stumbled, and Padilla tried to help him, one of the *contras* threatened him with his bayonet. (*Id.*, para. 9.)

That night the group stayed in the house of a campesino. The next morning, after one man was released, they continued on to a house where more captives were picked up and then to another where 15 kidnappees were already waiting. The *contra* leader took Padilla, a Delegate of the Word, out for questioning, taking out a notebook that already contained his name. He told Padilla

> "'I'm going to let you go because you're old. What we need are people 30 and younger. You can go but watch out.' He told me that I should stop being involved in organized things." (*Id.*, para. 15.)

Padilla was released but he has had no news of his two adopted sons Jorge, 23, and Valentin, 24, or of the others who were taken by the *contras*. (*Id.*, paras. 16 and 17.)

Amado Gutierrez

On October 15, 1984, Amado Gutierrez, 23, was in Waspuko in the Siuna region to pick up some cows. On the pretext of taking him to see the animals, a *contra* collaborator took him instead to where 50 *contras* were waiting. They accused Gutierrez of being a miliciano, which he denied, and burned his birth certificate and identity card. They held him there for 15 days as many other *contras* arrived, then took him on a day's walk to Copawas. (Affidavit of Amado Gutierrez Diaz, Exhibit 6, para. 2.)

Gutierrez tried to gain their confidence so he would be able to escape, and in Copawas they gave him a weapon, telling him, "We're going to collect people to liberate Nicaragua". Some of the group left and later returned with about 60 captives from San Pablo de Asa, Monte de Oro and Aserrin, including pregnant women and small children. The *contras* took the new group toward Waspuko, saying they would be taken to Honduras. (*Id.*)

Gutierrez stayed with the *contras* through battles in El Dorado, Monte de Oro and San Pablo before escaping on December 6 along with another hostage, as their captors slept. (*Id.*, para. 3.)

B Mass Kidnappings on the Atlantic Coast

A recurring event on Nicaragua's sparsely-populated Atlantic Coast has been the mass kidnapping to Honduras of entire Miskito Indian villages by counterrevolutionary forces. While many Miskitos have chosen, for a variety of reasons, to resettle in Honduras, in a number of instances armed *contra* invaders have entered Miskito villages in Nicaragua and forced the entire populations to accompany them to Honduras. While some people in these villages undoubtedly wanted to accompany the *contras*, many others did not. All were obliged to leave, however.

In *contra* training camps in Honduras, new soldiers are given instructions on how to kidnap. One Miskito Indian, who had himself been kidnapped into the *contra* army and later escaped, testified:

> "They told us that, arriving in a community to kidnap, we had to first surround the village and then shoot off our weapons to scare the people so they get out of bed, and not to let even one person escape, and to always do it at night." (Affidavit of Baudilio Rivera, Exhibit 1 to Sukatpin chapter, para. 17.)

As the chapters that follow illustrate, this tactic has been used repeatedly by the *contras*.

[*Note:* The chapters on Slimalila, Set Net Point and Sukatpin are based on the affidavits of witnesses who were located, at the investigative team's request, by the Nicaraguan government. While this was a deviation from the team's policy of selecting each witness itself, the team spent over 12 hours with these witnesses — outside the presence of any government representatives — and is convinced of the veracity of their testimony.]

23. SLIMALILA

April 23, 1983

One example of mass kidnapping occurred in the northern reforestation center of Slimalila where, on April 23, 1983, a *contra* task force took away an estimated 1,500 people, mostly Miskito Indians.

As it does each night, the village's electricity went out at 10 pm. About half-an-hour later, the residents began to hear shots and then mortar fire. As the town was defenseless (Affidavit of Juan Bustillo Mendoza, Exhibit 5, para. 8), the *contras* were easily able to enter.

Juan Bustillo Mendoza was at home with his wife and his sick mother when the firing and mortaring began. A mortar fell about four or five yards from his house. As the invaders shot indiscriminately, the family threw themselves on the floor and prayed. (*Id.*, paras. 5-7.) Bustillo testified:

> "After about an hour-and-a-half, they began to yell for everybody to get out and I went to the window and saw that several houses were already burning. They mortared the iron water tank which made a great noise.
>
> Fifteen minutes later, we heard steps coming towards the house, they knocked at the door about three times. I didn't answer and they broke down the door and seven people entered with a flashlight into the room where I was with my wife, my brother and my nine-year-old sister. My sister started crying and they told her to shut up. My mother asked why she had to shut up, that she was very young. Then they threatened my mother with a bayonet and told her they were going to kill her. My mother asked why, if they call themselves Christians, they did such things and they told her to shut up or they would shoot her. They said that if they killed, they did so in the name of God, and not because they wanted to.
>
> Then they told us to get out, because they were going to burn the house . . . They put a pistol to my mother's ribs and said that if I ran away, they would shoot her." (*Id.*, paras. 9-13.)

Hereberto Siles Martinez, a non-Miskito who was in charge of the warehouse, was at home with his wife and four-year-old girl. On hearing the firing, they threw themselves on the floor and covered themselves with mattresses.

> "About a half-an-hour later, they began to bang hard on the door, shouting in Miskito. We were scared — we didn't know what to do because we didn't understand. I don't know how they realized it, but they began to shout in Spanish, telling us to get out or else they would set us on fire right there. We understood and opened the door.
>
> With a shove, they pushed me out, the same with my wife. I asked them if they would give me the time to get a blanket and some pants because we didn't have anything ready and they said they were taking us away. They refused." (Affidavit of Hereberto Siles Martinez, Exhibit 6, paras. 5-6.)

Nicolas Chan, 49, a half-Miskito, half-Chinese radio technician, was alone in his house as his family was in Puerto Cabezas. Crouched on the floor,

> "I couldn't even raise my head because the bullets were flying near the roof. They passed by yelling in Miskito for everyone to get out of their houses . . .
>
> They said they were going to burn the houses.
>
> Some of the *contras* came and banged on my window, telling me to get out, that they were going to burn the houses.
>
> In the dark, I was able to grab a mosquito-net, some pants, a shirt, and I went out.
>
> They told me to walk towards Yulnata and not to take one step backwards.
>
> I saw that they were burning the houses and the woods. First they burned by the workshop, the general offices." (Affidavit of Nicolas Chan Irias, Exhibit 4, paras. 4-9.)

Two of the affiants give the number of people taken as 1,500. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 12; Affidavit of Nicolas Chan Irias, Exhibit 4, para. 14.) (In its report "Trabil Nani", at p. 37, the Centro de Investigaciones y Documentacion Sobre la Costa Atlantica, a government-funded research institute, gives an estimate of 1,250.) Of these, about 15 or 20 were people who apparently were expecting the attack (and may have helped prepare it), as they had all their belongings ready for the march. (Affidavit of Nicolas Chan Irias, Exhibit 4, para. 14.) Many of the others, who had nothing with them, were crying as they were taken away. (*Id.*)

That night the people were made to walk until dawn. In the dark, they had to cross a dirty river. Nicolas Chan and Hereberto Siles fell in, and were forced to continue on wet. (Affidavit of Nicolas Chan Irias, Exhibit 4, para. 12; Affidavit of Hereberto Siles Martinez, Exhibit 6, para. 8.) At 7 am the next morning, they came to the Rio Ulan and spent all day hiding in the hills because of the planes flying overhead. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 11; Affidavit of Nicolas Chan Irias, Exhibit 4, para. 15.)

That evening the group set off again, walking until 6 am the next morning through a pine forest. The group had no food, and the children and older people were having a difficult time. From 6 am to 11 am they walked through the hills until they reached the Rio Coco. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, paras. 12-16; Affidavit of Nicholas Chan Irias, Exhibit 4, paras. 6-15.)

That first day, Innocente Tinoco's wife gave birth. After she rested for just one hour, they had to continue marching and it was only the next day, in Honduras, that they were given a nurse to cut the umbilical cord. (Affidavit of Innocente Tinoco Diaz , Exhibit 3, paras. 11-13.)

When they got to the river, the *contras* shot into the air as a sign. From the other side, the sign was returned and canoes began to take the group in crossings that lasted all day. (Affidavit of Juan Bustillo Mendoza, Exhibit 5, paras. 17-18.)

Once in Honduras the group, which had gone three days without eating, was taken to a camp called Kiwastara where they were fed and allowed to rest for three days. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 18.)

They were then forced to march on, for one-and-a-half days, toward Srumlaya. On the way, they passed through a provisional *contra* base where the *contras* took a census, separating out those men 15-20 years old, 20-25 years old and so on up to 40, telling them that they would be sent on to a central base for military training and return to Nicaragua to fight against the "communists". (*Id.*, paras. 20-24.) There, a helicopter marked "USA" dropped off munitions to the *contras*, as well as military boots which were then given to the ones who had been selected to fight. (Affidavit of Juan Bustilo Mendoza, Exhibit 5, para. 24.)

In Auka, the group was received by soldiers of the 5th Military Region of Honduras. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 25.) At I am the group continued on to the abandoned hamlet of Tapamlaya, where they were told to choose houses from among those that had previously been homes to other refugees. (*Id.*, para. 28.)

There, the *contras* separated out some 100-120 fighting-age men and took them away forceably. Only a few — "less than five per cent" according to one witness — seemed to want to go. (*Id.*, para. 30.) Gregorio Winter, 29, a technician, was not sent to fight because of his educational level :

> "One of the commanders told me that 20 of the boys in the line-up aren't worth what I'm worth and that its really difficult to bring educated people from Nicaragua and that I would be with them in their central office with the 'old man' — Steadman Fagoth. They even gave me a paper to present to the council of elders so I'd be sent to the central base." (Affidavit of Gregorio Winter, Exhibit 2, para. 4.)

The remainder were then gathered together in a small Moravian church where they were told that foreign journalists and officials of the United Nations High Commissioner for Refugees (UNHCR) would be coming, and that the captives were not to tell them that they had been kidnapped.

> "They said that the 'gringos' and the journalists were communists like the Sandinistas and that we had to say that we had come of our own free will, and that the Sandinista military had thrown us out of town, were persecuting us and that there was no freedom in Nicaragua. They said that if we didn't they would punish us, they would cut our tongues and make us swallow water by dunking our heads in the river." (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 31.)

When the UNHCR arrived, they heard the story that the captives had been ordered to give. (*Id.*, para. 33.)

After 15 days, the people were moved, in Honduran army trucks, over four nights, to the town of Mocoron. They were told that the transfer was carried out nocturnally so that the role of the Honduran army would not be discovered by the UNHCR. (*Id.*, paras. 34-37.) In Mocoron, where the refugees again lived in abandoned houses, they were again warned to tell the UNHCR and the many journalists who arrived that they were fleeing the Sandinistas. (*Id.*, paras. 40-43.) Indeed, the people usually interviewed by the journalists were actually *contras* dressed in civilian clothes. (*Id.*, paras. 41-43.)

In Mocoron, Juan Bustillo and Hereberto Siles and their families left the group and managed to find work with a company constructing a military base in Dursuna where *contras* would come and go. Once they saw United States advisors as well. (Affidavit of Juan Bustillo Mendoza, Exhibit 5, paras. 28-29.) During their five months there, the *contra* leaders would often bring in tied-up *contras* who had tried to escape. (*Id.*, para. 30.)

There were many Nicaraguans working at the base, and one day a *contra* leader came to announce that they would all have to come, whether they liked it or not, to fight with them in their "final offensive". (*Id.*, paras. 31-32.) Bustillo and Siles, who with their entire families had contracted malaria, then planned and executed a 17-day escape through the hills and rivers back to Nicaragua. (Affidavit of Juan Bustillo Mendoza, Exhibit 5, paras. 33-43.)

After 15 days in Mocoron, on May 29, 1983, the remainder of the hostage group, some 500, marched for a day-and-a-half to Wampu Sirpe where, after receiving eight days' worth of rice and beans from the UNHCR, they were taken to a hill where most of them still live. There, as the rainy season began, they started to build their own houses of trees and leaves. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, paras. 47-49.)

In Wampu Sirpe, the refugees, almost without exception, began to fall sick with conjunctivitis, diarrhoea and malaria. (*Id.*, para. 50.) With only 28 malaria pills for the 500 who were there, virtually everybody contracted malaria, including Rosa Gutierrez, Gregorio Winter and their two children (*id.*) and Nicolas Chan, who also had conjunctivitis and boils. (Affidavit of Nicholas Chan Irias, Exhibit 4, para. 18.) In all, 13 people died in the first year the community lived in the hills. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 54.)

The 500 of Slimalila were not alone. On the neighboring hills, at least 13 other Nicaraguan Miskito communities, including Santa Clara and Tasba Pain, lived in similar conditions. (*Id.*, para. 51.)

The *contras* had left one "coordinator" to keep watch over the refugees (*id.*, para. 56; Supplemental Affidavit of Nicolas Chan Irias, Exhibit 4, para. 7), making sure that they continued to tell journalists that they were living well (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, para. 56). Similarly, when officials of the Red Cross came to see if the captives wanted to write to their families, the coordinator warned them not to. (*Id.*, paras. 57-59.)

The *contras* also raided the refugee camp four times looking for the remaining men to take them to fight. (*Id.*, para. 61.)

Escaping was difficult. Nicolas Chan tried to escape twice. The first time, traveling with local residents, he made it as far as Sir Sir, a one-and-a-half day's walk, when he was intercepted by three dagger-wielding *contras* who asked him where he was going. When he said he was going to Puerto Lempiras, Honduras, to look for work, they told him that refugees did not have the right to work. They accompanied him half way back to Wampu Sirpe and told him that if they saw him again they would kill him. (Supplemental Affidavit of Nicolas Chan Irias, Exhibit 4, para. 6.) The second time, after a day's walk with three other refugees, he was intercepted and sent back by the Honduran Army. (*Id.*, paras. 10-14.)

Subsequently, after his two failed attempts, Chan smuggled a letter to the United States. Four months later, after 14 months in Honduras, his family arrived in Tegucigalpa and was able to arrange his return to Nicaragua. (Affidavit of Nicolas Chan Irias, Exhibit 4, paras. 19-28.)

Rosalia Gutierrez and her family and Innocente Tinoco and his family, all malaria-ridden, made their escape by spending almost a month on river boats, in hiding and on foot before arriving in the Honduran capital of Tegucigalpa. There, they were given food and lodging by the UNHCR but had to wait four more months before being repatriated to Nicaragua. (Affidavit of Rosalia Gutierrez Lopez, Exhibit 1, paras. 62-72.)

The majority of those taken to Wampu Sirpe, however, still live there.

24. FRANCIA SIRPE

December 19, 1983

On December 19, 1983, a force of about 500 *contras* entered the town of Francia Sirpe, in Northern Zelaya (Affidavit of Orlando Wayland Waldiman, Exhibit 1, para. 11; Affidavit of Otto Borst Conrado, Exhibit 2, para. 12), "shooting like crazy, with incendiary bullets". (Affidavit of Orlando Wayland Waldiman, Exhibit 2, para. 7.) When the people did not come out of their houses, the *contras* went "from house to house, taking all the people out with rifle-blows, and many old people, women, children and young people were crying out of fear, they didn't want to leave their town". (*Id.*, para. 8.)

Lucio Vargas, a 44-year-old health worker, was in his house with his wife and children when it was surrounded by about 20 *contras*. "They said that if I didn't come out, they would machine-gun the house." (Affidavit of Lucio Vargas Hooker, Exhibit 3, para. 5.) When they went out, they were grabbed. Vargas was separated from his family and taken away at gun-point. (*Id.*) He managed to get away, however, when the *contras* were not looking. (*Id.*, para. 9.) He spent the night in the mountains with three others who also were able to flee. (*Id.*)

Otto Borst, 50, who is half-German, half-Miskito, was hiding above his general store when the *contras* banged on the door demanding food. He gave it to them and then went back into hiding, but another group came and, breaking the window, dragged him off to one of their commanders. (Affidavit of Otto Borst Conrado, Exhibit 2, paras. 16-17.) Borst pleaded with the commander to let him go, saying that his wife was sick in the hospital. The commander, who called himself Luis Aguilera, responded, "Brother, it's war-time, march". (*Id.*, paras. 17-18.) Nevertheless, Borst, too, was able to escape back to his house when the commander turned away. (*Id.*, paras. 20-21.)

The *contras* concentrated the population in the middle of town. (Affidavit of Orlando Wayland Waldiman, Exhibit 1, para. 9; Affidavit of Otto Borst Conrado, Exhibit 2, para. 19.) There, Richard Thomas, who worked in popular education and with the volunteer police, tried to run away but was gunned down in the back. (Affidavit of Orlando Wayland Waldiman, Exhibit 1, para. 9; Affidavit of Otto Borst Conrado, Exhibit 2, para. 14.) The *contras* then sent out two groups, including civilians, one to ransack José Zuniga's store and the other to steal from Otto Borst's store. (Affidavit of Orlando Wayland Waldiman, Exhibit 2, para. 13.)

The group that had been sent out, including one of the commanders, began to ransack Borst's store, to which he had been able to return. They took away most of the merchandise he had on hand for the Christmas season (worth 185,000 cordobas), as well as 68,000 cordobas in cash and a radio. (*Id.*, paras. 20-21.) Although they warned him that they would burn the house if he did not come out, Borst was able to make it out the back exit, and he hid in his outhouse all night. (*Id.*, paras. 21-23.)

Among the people gathered up by the *contras* was Monsignor Salvador Schlaffer, the Catholic Bishop of Zelaya province, who had arrived in Francia Sirpe that day. When the Bishop protested that he wanted to go back to Puerto Cabezas because he was infirm with arthritis, the *contras* responded that it would not be possible because the road back to Puerto Cabezas had been mined. (Affidavit of Otto Borst Conrado, Exhibit 2, para. 29.)

When another woman complained that she was sick and did not want to leave with her five children, the *contras* shot in the air above her head and responded, "You want to stay as a communist spy, but you're coming with us". (Affidavit of Orlando Wayland Waldiman, Exhibit 1, para. 14.)

Those in the town who worked with the government, including Orlando Wayland who supervised the educational program and eight others who worked in health, education and welfare, had their hands tied behind their backs. (Affidavit of Orlando Wayland Waldiman, Exhibit 7, para. 10.)

The people were then moved out to the nearby village of Wisconsin. The men made the three-hour march on foot while the *contras* used the Bishop's Jeep to transport the women in several trips. (*Id.*, para. 15.)

The next morning, as those few residents of Francia Sirpe who had hid or were spared came out, they found a ghost town. Only 18 of Francia Sirpe's 1,250 people were left. (Affidavit of Otto Borst Conrado, Exhibit 2, para. 27; Affidavit of Lucio Varga Hooker, Exhibit 3, paras. 10-15.) The doors of the houses were all broken in. (Affidavit of Otto Borst Conrado, Exhibit 2, para. 28.) José Zuniga's store was as empty as Otto Borst's (*id.*) and the road to La Tronquera had been mined. (*Id.*, para. 31.)

In Wisconsin, the road ended, and the *contras* and their captives began to march along a muddy trail. The *contras*, who had been getting drunk from the stolen liquor, began to fire their weapons to get the people, who were screaming and crying, to move faster. (Affidavit of Orlando Wayland Waldiman, Exhibit 1, para. 17.) In the group, in addition to the Bishop and other priests, was a journalist who identified himself as American. (*Id.*, para. 20.)

After camping for the night, the group marched onward when they heard fighting behind them. The leader of the *contra* group, Juan Solorzano, a former member of Somoza's National Guard now using the pseudonym Juan Blanco (*id.*, para. 11), ordered the people to run, and they did until they reached the mountains (*id.*, para. 22). The next day, at 3 am, they again marched all day until they got close to the Rio Coco. That day, two women gave birth. Their umbilical cords were cut and they were then forced to march on. (*Id.*, paras. 23-24.)

The nex day they reached Esperanza, on the Rio Coco, where Steadman Fagoth, the Miskito *contra* leader, was waiting for them. Upon seeing the dead and wounded *contras* from skirmishes along the way, he told the nine government workers "for these dead, you will pay". (*Id.*, paras. 25-26.) They were then handcuffed and thrown down three or four yards to the river by *contra* commander "Evil Face". Orlando Wayman testified:

> "[H]e grabbed me by the hair and picked me up and began to drown me in the water. When I began to lose consciousness, he took me out, and I was left deaf, deaf. Then he began to beat both my ears and water came from my mouth and my nose." (*Id.*, para. 26.)

The other government workers received similar treatment. (*Id.*, para. 28.)

Everyone in the group, including the nine government workers, was then taken across the river in small boats and Fagoth told them that the boys were going to be recruited and the others would be sent to refugee camps in Wampu Sirpe (like the people of Slimalila). About 40 were taken to fight. (*Id.*, para. 30-31.) Once in Honduras, the others were taken toward Mocoron, on the way to Wampu Sirpe, while the government workers were taken to a military camp. (*Id.*, paras. 32-33.)

In the military camp, the government workers were kept in a four-foot high, poorly covered, muddy pig sty. (Affidavit of Orlando Wayland Waldiman, Exhibit 7, paras. 33-35.) Orlando Wayland testified as to what their captors did next:

> "The next day, the tortures began . . . They drowned me in the water in the morning. In the evening, they tied me up in the water from 7 pm until 1 am. The next day, at 7 am, they began to make me collect garbage in the creek in my underwear, with the cold. The creek was really icey. I was in the creek for four hours . . .
>
> They they threw me on the ant hill. Tied up, they put me chest-down on the ant hill. The [red] ants bit my body. I squirmed to try to get them off my body, but there were too many.

> I was on the ant hill 10 minutes each day, to get military information out of Nicaragua, they said. Sometimes it was only 5 minutes.
>
> Each day, they applied these tortures, to each of us, one by one.
>
> They would also beat me with a stick, which hurts. They would beat me from head to heels. They beat me hard and left me purple, purple in my back. Then they would give me an injection to calm me a little. Then they would beat me again.
>
> We stayed like that for more or less one-and-a-half months, with tortures every day, always sleeping, cold and wet, in the pig sty." (*Id.*, paras. 36-42.)

After a month-and-a-half, Steadman Fagoth approached them, saying "We are going to spare your lives". He urged them to join his forces and explained, "We tortured you because you deserved it, even God himself, when His son deviates from His word punished him, and we do the same". (*Id.*, para. 43.)

To avoid further torture, the workers agreed to join the *contras* and were given uniforms and sent to the Misura Military Instruction Center ("CIMM") with Fagoth's brother Hilton Fagoth. (*Id.*, paras. 44-48.)

There, the workers were trained by two instructors, "Chan" and "Samba", who identified themselves as coming from the EEBI, formerly an élite unit of General Somoza's National Guard, and by "Mercenary", who said he had received military training in Argentina. (*Id.*, para. 49.) The camp had three American supervisors who, Chan told the workers, were Vietnam veterans. (*Id.*) An olive-green helicopter with "USA" markings came to drop arms, including rifles, grenade launchers, mines and explosives, that the Americans received and gave to Hilton Fagoth for use in his camp. An olive-green twin-engine plane dropped canned food in white parachutes. (*Id.*, paras. 49-50.)

Near this base was one called the "Chinese Base", which was run by six oriental instructors who, according to Fagoth and Chan, were South Korean. (*Id.*, para. 51.) There was also another base nearby called "TEA" — Special Area Troops — which was directly run by ten Americans and to which helicopters marked "USA" arrived daily. (*Id.*, para. 52.)

On March 29, 1984, "Chan" called the troops together and announced that, on Fagoth's orders, they were being divided into groups to carry out several missions. He explained that one group was to go to Sumubila to bring back captives, another would attack the hydroelectric plant near Bonanza, another would mortar the military base in Puerto Cabezas as a diversionary action, while another would go to the Rio Coco to receive the captives. (*Id.*, paras. 53-54.)

Orlando Wayland left with a group of 42 led by "Chan", another ex-EEBI soldier and a member of the Special Honduran Jungle and Nocturnal Troops ("TESON"). (*Id.*, para. 55.) After marching for eight days they arrived in Wisconsin, Nicaragua. (*Id.*) There, Wayland decided to try to escape. He tried to convince one of his fellow workers, Astin Ramos Brown, to flee but Ramos was scared because his wife, children and parents were being held captive in Honduras and many people had said that the families of deserters were killed. (*Id.*, para. 56.)

On the pretext of going to pick oranges, Wayland ran away. He reached Francia Sirpe (by then deserted), and then reported to the authorities in La Tronquera. He now lives in Puerto Cabezas and, having heard threats against him on the *contras'* Miskito-language radio, he no longer leaves the town. (*Id.*, paras. 57-61.)

Most of the Francia Sirpe residents who were taken to Wampu Sirpe have not since reappeared. Otto Borst lost some 50 relatives including a daughter, a grandchild, a sister, uncles, cousins and nephews. While he believes that some of the people of the town were willing to go with the *contras*, his family "didn't want to go to Honduras". (Affidavit of Otto Borst Conrado, Exhibit 2, para. 38.) He has not heard from them since, except via a letter from a niece in the United States, who told him the family wrote to her stating they are unable to leave Honduras. (*Id.*) In the ransacking of his store he lost everything he had, "everything I had fought to earn. I have 10 children and my salary isn't enough to make ends meet." (*Id.*, para. 35.)

Lucio Vargas lost his wife, five children, five grandchildren, his sister and her six children, and other family members. (Affidavit of Lucio Vargas Hooker, Exhibit 3, paras. 11-12, 20.) He has received a note from his wife through the Red Cross that they are in Mocoron along with his mother, who had been kidnapped from Andres with a brother and sister and their families, and with a brother who was taken from Santa Clara. (*Id.*, para. 17.) The note also said that one of their children had died, but it did not say how. (*Id.*) Like Otto Borst, he has written letters to try to get his family back, but thus far in vain. (*Id.*, para. 19; Affidavit of Otto Borst Conrado, Exhibit 2, para. 39.) Both Vargas and Borst now live in Puerto Cabezas.

25. SET NET POINT

June 19, 1983

On the evening of June 19, 1983, a small *contra* band in a fishing boat landed in the Southern Zelaya fishing village of Set Net Point. (Affidavit of Father Martin Piner Miranda, Exhibit 1, paras. 1-4, 10.) As the people were leaving a service in the Moravian church, the *contras* grabbed them and began to take them to the boat, which some residents identified as having been stolen from the village of Monkey Point. (*Id.*, paras. 5, 10.)

One of those taken was Martin Piner, the Miskito Moravian pastor. The *contras* searched him, took his identification papers as well as the card the government issues to priests for their protection, and pushed him on to the boat. "I didn't want to go . . . but I didn't have any choice. They said they were going to throw me in the ocean." (*Id.*, para. 8.)

In all, 107 people were taken on the boat, the entire town except for five families that managed to flee. (*Id.*, para. 9.) According to the pastor, "Some in the community wanted to go, but the others didn't want to go but were forced . . . The majority were not in agreement." (*Id.*, paras. 6, 10.) Caught by surprise, the people were unable to bring their belongings. (*Id.*, paras. 12-15.)

After sailing 18 hours, the boat reached Puerto Limon, Costa Rica, where the people were met and given papers by Costa Rican immigration. (*Id.*, paras. 12-15.) From there, a bus made several trips to take them to Pueblo Nuevo, Costa Rica, where the families were distributed to various houses. (*Id.*, paras. 16-17.)

They stayed in Pueblo Nuevo. Each day, the Costa Rican authorities would take them to a kitchen to eat, while Costa Rican soldiers surrounded their settlement. (*Id.*, para. 18.) "We felt like prisoners there, because they said we couldn't leave." (*Id.*, para. 19.)

After 29 days, Father Piner was given permission to go buy cigarettes and, meeting a *contra*, he asked to be taken to their base. There he met Brooklyn Rivera, a Miskito *contra* leader. As a way to get back home, Piner asked Rivera if he could go back to Nicaragua with them. Rivera agreed and Piner was given a rifle and sent with eight others on an outboard motorboat towards Nicaragua. (*Id.*, paras. 20-25.)

After two-and-a-half days, the boat landed in Walpasixa in North Zelaya. There, while the others were sleeping, Father Piner managed to escape. (*Id.*, paras. 24-26.)

Father Piner's encounters with the *contras* were not over, however. After reporting to the Nicaraguan authorities he went to live in the village of Sisin, where, as a result of his experience with the *contras*, he decided to work with the army, giving it information on *contra* movements. "As a pastor, I wanted to avoid more deaths." (*Id.*, paras. 27-32.) One day, in June or July of 1984, on his way to his father's farm, he was stopped by two armed *contras* who, pointing their guns at him, led him to a hill where 36 others were stationed. There, the leader told him that they had been looking for him for some time. (*Id.*, paras. 33-35.)

From there, he was marched for several days to the Rus Rus *contra* base in Honduras where he was presented to Steadman Fagoth, another Miskito *contra* leader, who showed him a list of "Sandinista spies" on which his name appeared. (*Id.*, paras. 36-39.)

Father Piner's head was then shaved and he was left for three days with no food. (*Id.*, paras. 40-41.) Next he was taken to a river, where "Jimmy", one of the *contras*:

> "grabbed me by the neck and put my head down in the water. When I couldn't take it anymore, he picked me up and put me back in the water again. It was like that for half an hour.
>
> They took me from there and tied me to a pine tree in the camp for 3 days.
>
> After 3 days, they untied me. I hadn't eaten for 5 days." (*Id.*, paras. 42-43.)

Father Piner then agreed to work with the *contras*, and they began to give him training. Each night, he was also given guard duty, but he often fell asleep and, five or six times, was punished with a similar water treatment. (*Id.*, paras. 44-45.)

Father Piner was trained for 19 days. While most of those in the camp were Miskitos, there were also four oriental men in the camp who spoke no Spanish and who twice forced Father Piner to eat snakes. (*Id.*, para. 47.) Father Piner could not take the rigorous training and began to vomit blood. After spending six days in a clinic, he asked Fagoth to be allowed to preach. Fagoth agreed and sent him to Tapamlaya, Honduras, where he spent three months preaching to Nicaraguan Miskitos. (*Id.*, paras. 49-51.)

At that point, Father Piner, along with eight others, secretly made their way to and across the Rio Coco into Nicaragua, and, on November 30, 1984, they reported to the Nicaraguan authorities. (*Id.*, paras. 59-60.)

Father Piner is afraid to go back to his community, and now lives in Puerto Cabezas. (*Id.*, paras. 61-62.)

26. SUKATPIN

October 1983

In October 1983 approximately 200 armed *contras* entered the Miskito town of Sukatpin in Northern Zelaya and occupied it for six days, preventing the inhabitants from leaving. (Affidavit of Baudilio Rivera Perrera, Exhibit 1, paras. 3-4.)

After six days, the young people of the town, some 200, were taken away. Baudilio Rivera, 19, had tried to hide in his house but was given away by *contra* sympathizers. As a result, he was beaten in the back with a stick and dunked in the water as the *contras* led him and the rest of the group away. (*Id.*, para. 6.) Rivera testified that there were those in the town who supported the *contras* but that the majority did not. (*Id.*, para. 5.)

For two weeks the group marched, sleeping in the mountains, eating raw yucca and bananas, until they crossed into Honduras and reached Srumlaya. (*Id.*, paras. 9-12.) After three days there, the group moved to Auka, then Rus Rus, then to the Misura Military Instruction Center (CIMM). (*Id.*, paras. 12-14.) There, the group rested for several weeks because many of them had become sick on the journey. (*Id.*, paras. 15-16.)

In the CIMM, those in the group were given blue FDN military uniforms and began to receive training — exercises, how to ambush, how to blow up bridges, how to kidnap people. (The instructions Rivera received on kidnapping are described in the Slimalila chapter.) The captives received their instructions from non-Miskitos who spoke only Spanish. Honduran soldiers also came to the base, as did English-speakers who were identified by the commanders as Americans. (*Id.*, para. 18.)

After two months of training, a group was equipped and sent back towards Nicaragua intending to kidnap the people of Sandy Bay. (*Id.*, para. 19.)

They crossed the Rio Coco into Nicaragua at the village of Andres. After two days of marching, four of the captives escaped at night. (*Id.*, para. 22.) When they got close to Sandy Bay, Rivera escaped as well while on guard duty. (*Id.*, para. 24.) He now works in Puerto Cabezas as a tractor driver with the Construction Ministry. (*Id.*, paras. 2, 26.)

27. SANGNILAYA

December 11, 1984

On December 11, 1984, *contra* forces began an evening attack with gunfire and mortars against the Miskito resettlement village of Sangnilaya, about 40 kilometers north of Puerto Cabezas near the Wawa River. (Affidavit of Johnny Briman Lopez, Exhibit 1, para. 6.)

After the firing stopped, "The *contras* went from house to house, collecting young people. They were well-armed, in olive-green and blue uniforms and rubber boots." (*Id.*, para. 9.)

Johnny Briman, an auxiliary nurse who was substituting for the vacationing regular nurse, hid in a back room in a neighbor's house when he saw the *contras* taking away the youths. (*Id.*, paras. 8-10.) The *contras* yelled to the owner of the house in which Johnny was hiding, "Are you ready, let's go", calling him "son-of-a-bitch" and telling him he had to go. "Get a shirt and pants and let's go. Hurry up. Get your identification card, too." (*Id.*, para. 11.) When he could not find his identification card, the *contras* told him to light a match.

The man's wife was going to light a match but her husband stopped her, fearing it would give Briman away. The *contras* said "so, there's another boy"? but were apparently satisfied by the family's denial. Finally the owner of the house found his card and the *contras* started to take him, but his wife and step-mother put up such a fuss that, after hitting him with their rifles, they let him go. (*Id.*, paras. 15-16.)

The *contras* took 30 people that night, however, 28 men and two women. Some were taken away tied up, others were beaten. To one boy, whose mother was crying, they said, "If we don't defend this country, who will, even if your mother is crying". (*Id.*, paras. 17-19.)

The next morning, the mothers and relatives of the hostages got together, crying over their lost children. In the afternoon the Nicaraguan army came, but it was too late to help. (*Id.*, paras. 22-23.)

PART V. RAPES

28. SEVEN EXAMPLES

Digna Barreda de Ubeda

Digna Barreda de Ubeda of Esteli, a mother of two, is the niece of two well-known religious leaders, Felipe and Mery Barreda, who were tortured and killed by the *contras* [see chapter on Agronica Farm]. On May 3, 1983, Digna and her husband, Juan Augustin, were visiting the land they had received under the agrarian reform program in the village of Zapote, near Susucayan, Nueva Segovia. (Affidavit of Digna Barreda de Ubeda, Exhibit 1, paras. 1-2.) The couple was staying there with her uncle, who, it turned out, was collaborating with the *contras* and who had denounced the couple as Sandinista spies.

That evening after dinner, five *contras* came to the house, beat up Juan Augustin, stole a gold chain and watch Digna was wearing, and tied their hands and took the two of them away along with a one-eyed man from Managua. (*Id.*, paras. 6-11.)

Three of the men went back to talk to the uncle. Upon returning:

> "They beat my husband brutally . . . And then, the three who talked with my uncle raped me so brutally that I still have scars on my knees. They put me face down. They raped me through my rectum too. And all this in front of my husband." (*Id.*, para. 12.)

The captives were then taken further on where they met a group of 35 *contras*. There they were interrogated and beaten and Digna was again raped in front of her husband. (*Id.*, para. 14.)

Two more *campesinos* were brought in, their hands tied, and the group continued on until they reached a safe house in the mountains. (*Id.*, paras. 15-18.) After eating, they continued on until at 4 am they reached a camp of tents marked "made in USA". (*Id.*, para. 20.) There, while some of the *contras* slept, others interrogated Digna, "torturing me, pressing my eyes, separating my toes and raping me brutally again". (*Id.*, para. 20.)

Juan Augustin, who still was tied up, asked the *contras* to kill him, but he was told that they were going to take him to Honduras, beating him on the way, where "Benito Bravo", a *contra* leader, was waiting to kill him, and they "kicked him and beat him again and again". (*Id.*, paras. 21-22.)

The *contras* said that they were with the FDN. (*Id.*, para. 23.)

On the fourth day, Digna promised her captors that she would collaborate with them if they would let her go. After discussing it with the leader and returning to talk to Digna's uncle, the *contras* agreed, but did not free her yet. (*Id.*, paras. 25-32.)

That day, the *contras* called one of the hostages, Juan Valladares, and asked him if he loved Tomas Borge (one of the Sandinista commanders) and the revolution. When Valladares replied that he did, "they laid him down on the ground and they gouged out his eyes with a spoon, then they machine-gunned him and threw him over a cliff". (*Id.*, paras. 33-34.) At the same time, the one-eyed man escaped. (*Id.*, para. 35.)

On the fifth day:

> "five of them raped me at about five in the evening . . . They had gang-raped me every day. When my vagina couldn't take it anymore, they raped me through my rectum. I calculate that in five days they raped me 60 times." (*Id.*, paras. 37-38.)

That day they let Digna go, believing that she would collaborate with them, but not before the contra who was assigned to lead her back to the road raped her. (*Id.*, para. 43.) On her request, the contras untied her husband's hands, which had been bound for five days. He was not freed, however. (*Id.*, paras. 39-40.)

Back in Estelí, Digna reported to the authorities on these events and on the participation of her uncle, who had offered her a bribe not to do so. (*Id.*, paras. 44-47.) She was taken to the hospital where she was treated and her vagina was cleaned. Her husband escaped during a battle 15 days later. (*Id.*, paras. 48 and 51.)

Her difficulties were not over, however. Her house in Estelí was set on fire and she was forced to move. (*Id.*, para. 52.) Her father and two brothers were robbed and kidnapped. One of the brothers returned after having been taken to Honduras while the other is still missing. Another campesino was also kidnapped with her brothers, and reportedly his penis was cut off. (*Id.*, paras. 53-56.)

Marta Arauz de Ubeda

Marta Arauz de Ubeda, 19, from Jinotega, was returning from Pantasma on September 24, 1984, with her sick mother and her two-and-a-half-year-old daughter. They got a ride in a truck which was also taking five young teachers and several other people. (Affidavit of Marta Arauz de Ubeda, Exhibit 2, paras. 1 and 3.)

When they got to Las Cruces, their truck was attacked by 500 armed and uniformed men. The attackers took the passengers out one-by-one, robbing them of their belongings. They were particularly severe with the teachers, calling them "the sons of bitches teaching communism to the children". (*Id.*, paras. 4-9.)

One of the contras recognized Marta because her husband had worked with the Sandinista Front in Pantasma:

> "[He said] 'Get that woman down. She's a bitch, rabid dog.' I said I wasn't. Then about eight of them pointed their rifles at me. I yelled to my mother 'mama, mama, they want to kill me'. My mother jumped out of the truck and said 'why are you going to kill my daughter?' They answered 'you old bitch, you're not the one who decides, we are'." (*Id.*, para. 11.)

The contras brought Marta up close to where they were burning a beer truck, and the flames burned her. She tried to get away but they would not let her. Then they took off her shoes and forced her to march along with the teachers. "They made me walk about four hours through the mountains. I was barefoot and they made me carry sugar cane. The teachers were tied in a single file." (*Id.*, paras. 12-15.)

During the march they pointed their guns at her, threatened to kill her, and asked her if she wanted to kill the teachers. (*Id.*, paras. 15-17.) The group finally arrived at the house of a collaborator where they spent the night. (*Id.*, para. 18.)

> "There, outside of the house they undressed me and wrestled me to the

> ground. They took me by force and raped me . . . I heard the screams of the other women and I'm sure they were raped too.
>
> I couldn't sleep. I spent the night outside with them. They asked me if I wanted to go to Honduras, if I wanted to be their woman. They told me they would take me to the United States and Honduras . . . I cried.
>
> We were there until morning, the teachers tied up. It was windy and the mosquitos were biting us." (*Id.*, paras. 19-22.)

In the morning, when the group was leaving, Marta snuck into the house, telling the woman of the house that she had been told by the leader to wait there. Marta was able to hide in the house while the group left, and until the Nicaraguan army arrived and rescued her an hour later. (*Id.*, paras. 23-27.)

Mirna Cunningham

Mirna Cunningham, 37, is a half-Miskito and half-Black doctor who, in 1984, was named government Minister for Special Zone I, Zelaya Norte.

On December 28, 1981, she was returning to Waspam from a hospital inspection in her home town of Bilwascarma, with a driver, a nurse and the hospital administrator, Oscar Hudson.

> "About 600 meters from the hospital gate, the car was attacked by a group of around 20 armed people who started shooting at the car. When the shooting stopped, the hospital administrator was able to jump out and run into the bush. He got shot in the leg, one of his legs — two shots. The rest of us, we were taken out of the car and beaten with rifle butts all over our bodies. And after that they made us get into the car again. They forced the driver to go back into the village at knife point." (Interview attached to Affidavit of Mirna Cunningham, Exhibit 3, pp. 19-20.)

They took the captives to a house on the Rio Coco where:

> "They tied us up, and said they were going to kill us, and they continued to hit us. They held us for several hours. Later they took two of the other doctors who were at the hospital; they were dragging them down to the river, also tied up and hitting them. When it got dark, they separated the doctors, and they took the nurse and myself to a hut, a little house near the river.
>
> At this house, they had us there for seven hours. During those hours we were raped for the first time. While they were raping us, they were chanting slogans like 'Christ yesterday, Christ today, Christ tomorrow'.
>
> . . . And although we would cry or shout, they would hit us, and put a knife or a gun to our head. This went on for almost two hours." (*Id.*, p. 20.)

The hostages were then taken across the river to a training camp in Honduras. There they were told that they had been kidnapped because they worked for the government. (*Id.*, p. 20.)

Their captors, including Miskitos and former members of General Somoza's elite EEBI unit, told them that they had other bases and were receiving their equipment from Washington. (*Id.*, pp. 20-21.)

> "They also said that they had Americans who came in and trained them for these camps that were deeper in Honduras. They said that they received help from the Honduran army. That they would come and help them transport their things. They were very proud of the help that they were receiving from the United States Government. They offered us Camel cigarettes, for example, as a proof that they were smoking good cigarettes.

> And they said they were getting canned food, good clothes and things like that, as a way to tell us why they were fighting." (*Id.*, p. 21.)

After two or three hours in the camp,

> "They told us that they were going to kill us, but they wanted to kill us in Nicaragua to leave our bodies as an example to the other people who work with the Nicaraguan government.
>
> They made us walk to the river again and cross the river, on our way back we were raped again, by all the ones who were taking us to the village." (*Id.*, p. 22.)

In the village the captives were released, but they were told that they should leave the Atlantic Coast because the *contras* did not want doctors there. (*Id.*, p. 23.)

When they got back to the hospital:

> "[W]e found Oscar Hudson in the bush with two shots in his leg. We were able to save him. We were all bruised for several days, bleeding. The nurse who went through this also was very disturbed emotionally.
>
> The hospital had to be closed also, because counterrevolutionaries went in the hospital. They stole instruments, medicine, things were broken and they terrorized the patients, and the other health workers, who were afraid to continue working there. So we had to close the hospital." (*Id.*, p. 23.)

Mileydis Salina Azevedo and Ermelina Diaz Talavera

In October 1984, 10 armed *contras* arrived at the Salina house in San Jeronimo de Chachagua, Nueva Segovia province, and told Mileydis Salina, 15, that she had to come with them. She and her mother pleaded with the intruders, but they insisted. (Affidavit of Mileydis Salina, Exhibit 4, paras. 3 and 4.)

The *contras* also went to the nearby house where Ermelina Diaz, 14, lived, and told her that she was coming with them. "I told them I didn't want to go, I was very afraid. They told me I had to go, they didn't say why." (Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 4.)

When the *contras* all joined together, there were about 100 of them, and they had taken three other hostages in addition to the girls. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, para. 3; Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 6.) After walking all day, they told the girls that they would both have to choose one of the *contras* to sleep with, or they would all take them. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, para. 6 and Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 7.) The girls did choose, "because that's what had to be done" (Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 8), and for the next 55 days they slept with the men they had been forced to choose.

During that time, the band participated in nine combats, most of them with the Nicaraguan army, although on one occasion they ambushed a civilian pick-up truck, killing some of its passengers. (*Id.*, para. 12.) Although the girls had rifles, they did not fight, but carried backpacks with munitions. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, paras. 10, 20; Affidavit of Ermelina Diaz Talavera, Exhibit 5, paras. 10, 11.) They received little to eat. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, para. 20; Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 10.) Among the group were five soldiers who said that they were not Nicaraguan. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, para. 20.)

The girls were finally able to escape while the group was resting, and they made it home the same day. (*Id.*, paras. 21 and 22; Affidavit of Ermelina Diaz Talavera, Exhibit 5, paras. 13 and 14.) Both plan to move to Murra because they feel it is safer, and they had been warned that if they escaped and were caught, they would not get away again. (Affidavit of Mileydis Salina Azevedo, Exhibit 4, para. 23 and Affidavit of Ermelina Diaz Talavera, Exhibit 5, para. 15.)

Josefina Inestroza and Abelina Inestroza

On December 18, 1984, at 7 pm, six armed, blue-uniformed, *contras* entered the Inestroza house in El Horcon, just outside of Susucayan. They said that they came to take away one of the boys, Purificacion, because he was a miliciano. When they could not find him, they turned on Josefina, 24, and Abelina, 20, both mothers. Testifying the next day, Abelina recounted:

> "They grabbed us, me and my sister . . . and raped us in front of the whole family. They turned out the lights and two of them raped me and two others raped my sister. They told us not to scream because they would kill us. They threatened us with their bayonets. They pointed their guns at the others in the house." (Affidavit of Abelina Inestroza, Exhibit 7, para. 6; *see also* Affidavit of Josefina Inestroza de Reyes, Exhibit 6, para. 6.)

Before leaving, the *contras* told the family that they would return at 8 am the next morning "for coffee". (Affidavit of Josefina Inestroza de Reyes, Exhibit 6, para. 7.) Early in the morning the whole family left the house for Susucayan where they gave this testimony. Even though they left everything in their house, they will not go back there but will move to Ocotal. (*Id.*, para. 8; Affidavit of Abelina Inestroza, Exhibit 7, paras. 8-9.)

STATEMENT OF DONALD T. FOX AND MICHAEL J. GLENNON

March 7, 1985

Last weekend we returned from Nicaragua. We spent the preceding week, from February 23 to March 2, in that country at the request of the International Human Rights Law Group and the Washington Office on Latin America. Our sponsors had received, among other materials, a detailed report prepared by Reed Brody, a New York attorney, which described extensive abuses committed by the *contras* against the civilian population. Our sponsors asked that we investigate allegations that the "*contras*", or counterrevolutionaries, had violated the rights of Nicaraguan civilians or engaged in acts contrary to standards established by international conventions applicable to internal conflicts for the protection of persons not or no longer taking an active part in hostilities. In addition we were asked to determine whether the material in Mr. Brody's report is reliable. We will file a full report in about ten days; this statement summarizes our inquiry's methodology, scope, findings, conclusions and recommendations.

METHODOLOGY

Our investigation was limited to the FDN (Frente Democratico Nicaraguense) group of the *contra*, which makes incursions into northern Nicaragua from bases in Honduras. The military leaders of the FDN, which has received support from the CIA, are former members of the National Guard of Anastasio Somoza, the late dictator of Nicaragua. In seeking to assess the accuracy of allegations made concerning the FDN, we traveled to Ocotal, Jalapa, Condega, Mozonte, Esteli and neighboring communities, where we interviewed over 30 individuals. Some had been interviewed previously by Mr. Brody; many had not. We took only first-hand statements; we did not interview persons who had not seen or heard personally the events they described, except for background information or for leads to other, first-hand witnesses.

In addition, we spoke with relevant officials of the Department of State, both in Washington and in the United States Embassy in Managua. We met in Managua with Nicaraguan government officials, representatives of human rights organizations, and church leaders, including Archbishop Obando y Bravo. We also asked *contra* representatives in the United States that we be allowed to meet with military commanders at *contra* bases in Honduras. Our request was not granted.

We emphasize that our mission was carried out without the direct or indirect assistance of either the Nicaraguan or United States governments. We sought to conduct our inquiry as independently and objectively as possible. We found it necessary to travel to areas of Nicaragua that State Department officials had recommended that we avoid for reasons of safety.

Because a serious shortage of gasoline exists throughout Nicaragua, we hired an unmarked vehicle and driver from the Nicaraguan Ministry of Foreign Affairs, for which we paid at regular market rates. The Ministry of the Interior, warning that our safety could not be guaranteed, gave us a telephone number which we were asked to call in the event an emergency arose. We believed, however, that to accept any further assistance from the government of Nicaragua would taint the credibility of our findings.

Accordingly, we did not reveal our itinerary, which was, indeed, revised several times along the way. We went where we wanted to go, when we wanted to go there. We spoke with whomever we wished. Our interrogations were conducted in accordance with standard procedures of cross-examination to determine probable veracity. Furthermore, to the extent possible, we cross-checked among sources, both individual and documentary, to assure objectivity.

No governmental consent was required for any interview (with the exception of the former head of intelligence at the FDN base Pino Uno, from which incursions into northern Nicaragua are launched. He is currently incarcerated at the Modelo Prison at Tipitapa). The only limits on where we could go or who we could meet were our own schedule and endurance. We did not interview any one who was brought to us by the Nicaraguan government. (In one instance, one of our contacts, unable to find a person we wished to interview, went to a local Sandinista official to help locate the person; we decided not to include the person's statement in our report.)

SCOPE

We looked primarily at violations of civilian rights by the *contras*. Although we asked regularly about violations by the Sandinistas, we acknowledge that our inquiry focused, by the direction of our sponsors, principally upon the *contras*. We believe that this focus was justified. Human rights violations by the Sandinistas already have been investigated in depth by such groups as the Inter-American Commission on Human Rights and Americas Watch.

FINDINGS

Officials of the Department of State who asked not to be identified told us that they are not aware of the validity of "any or all" of these allegations regarding *contra* abuses. "We have no firm knowledge of what's going on in the field", they said. These officials told us that the intelligence community has not been "tasked" to find out, i.e., that it has not been directed to gather intelligence on the issue. Thus the Department, for reasons that were not fully specified, has remained in what the officials described as "intentional ignorance" of the situation.

Despite the State Department's profession of ignorance, a fairly clear pattern emerged from conversations with the individuals we interviewed in the war zone along the Honduras border.

State Department officials had told us that the *contras*' two objectives are "debilitation of the Nicaraguan economy" and "killing Nicaraguan soldiers". Yet we found that a substantial number of *contra* attacks in the Department of Nueva Segovia were associated with actions that went beyond limits established for the protection of non-combatants.

The *contras* attack "economic" targets such as lumber yards, coffee processing plants, electrical generating stations and the like. They also attack individuals deemed to be contributors to the country's economy or to its defense, such as telephone workers, coffee pickers, teachers, technicians and members of the civilian-based militia.

But substantial credible evidence exists that *contra* violence is also directed with some frequency at individuals who have no apparent economic, military, or political significance and against persons who are hors de combat. A few examples, based on our interviews, follow.

One 28-year-old woman from El Jicaro described a *contra* attack on her house that occurred on October 24, 1984, about 4.30 am. The *contras* broke down the door with the butts of their rifles, she said, grabbed her husband, knocked him unconscious with their weapons and tied him up. With their three children watching, one *contra* then took out a bayonet and slit her husband's throat. As he lay bleeding to death, their little girl ran up to her father and said: "What's happening to Daddy?" A *contra* then grabbed the mother and said "Come with us!" and tried to pull her from her children. When she resisted, he hit her and she fell unconscious. When she woke up on her cot, the *contras* were going through their belongings, "taking what they wanted". When they finished, a *contra* who had been giving instructions from outside her house asked those inside, "Did you do what you were supposed to do?"

Why, we asked, had her husband been killed? She did not know. "He never got involved in anything. He was a carpenter. He was not in adult education, or anything like that." Was he a communist? "I don't know what they are. I am a Catholic. We went [to Mass] every Sunday together."

A 28-year-old woman from the municipality of Quilali in Nueva Segovia described a *contra* attack that occurred on her village on December 18, 1983. At about 9 am, she said, she heard gunfire while feeding her six children breakfast. She gathered them together and took them to a shelter. "The *contra* shot up the whole village and all the houses", she said.

> "They grabbed a 15-year-old girl and took away her gun — she was in the militia. I was about [30 yards] away. She was screaming. There were about 50 *contras* around her. One of them raped her. The same person then took his bayonet in his hand and cut her throat. When I saw her throat cut I decided I should run away because they would do the same to me. They shot at us, but we went into a gully and escaped. As we did, they began firing [burning] houses. About 17 of 23 houses were burned. Twelve militia were killed, and two little girls. Among the militia were two brothers and my father."

A 21-year-old man told of riding last December in a Ministry of Construction truck when it was hit with a rocket. The *contras* soon had the truck surrounded, and after machine-gunning some survivors and cutting the throats of others, they set the truck on fire. "There were people alive inside the truck", he said. "I could hear the cries of those people. One was a child, about five years old." The man, who was wounded, survived by playing dead, he said.

A 53-year-old man from Condega described driving to Jinotega on December 26, 1984, following his son's wedding. Suddenly the pick-up truck was hit by machine-gun fire. The truck stopped; every one inside dropped to the floor. When the shooting stopped, men in uniforms that said "FDN" came up to the truck. Although wounded in several places, he lifted himself up, and saw that six of the ten people in the truck had been killed, including his wife and new daughter-in-law. "Look what you've done!" I said. "You've killed women and children! Look what you've done! We don't even have guns!" They said nothing. They just walked away.

His son was also interviewed. "After the actions of these 'freedom fighters'," he said, "I crawled from the vehicle and found a farm worker to get help." "I hope that these words will do something back in the United States", he concluded. "We just want to live in peace."

Another category of alleged *contra* actions consists of kidnappings. Credible evidence exists that, with some frequency, teenaged boys and others are kidnapped and taken to Honduras. On occasion, the kidnappings appear to comprise fairly large groups. Some of the victims are compelled to join the *contra*. Others are required to perform various services. Others are simply interned.

A 28-year-old telephone company technician in Esteli told us of his own kidnapping. It occurred on December 28, 1982. He had gone with about 100 people to a farm in Urales, about one kilometer from the Honduran border, to pick coffee. The group consisted of professors, doctors, technicians and a variety of different specialists. About 11.30 am, while they were in the fields, mortar shelling began along with machine-gun fire. The *contras* surrounded the farm, capturing him and a number of the others, including Mery and Felipe Barreda. The Barredas were the highly-respected heads of the Christian-based Communities in Esteli.

This witness, who managed to escape, related in detail the torture and execution of the Barreda couple. His testimony is confirmed by the bishop of Esteli, who issued a communiqué condemning this "inhuman act" of kidnapping and murder.

CONCLUSION

Many of the incursions during which these violations occurred involved numbers of FDN troops large enough to warrant the presence of a command structure. Smaller groups were alleged to be equipped with communications equipment that kept them in contact with other elements of the FDN. Thus, the violations do not appear to result from individual abberations; nor do they appear to be committed by isolated marauders.

It is possible that some of the statements we took are false or exaggerated. We intend to exclude from our report the two or three we doubt. But given the number of persons interviewed, the variety of sites at which the interviews took place, the multiplicity of contacts by which the witnesses were identified, and the cross-checking that was on occasion feasible, the preponderance of the evidence indicates that the *contras* are committing serious abuses against civilians.

We believe that sufficiently reliable evidence is now available to place the United States government on notice with respect to the actions for which its assistance has been and would be used. Although we were not able to investigate all of the affidavits on which Mr. Brody's report is based, most that we did investigate appear accurate in all material respects. The weight of probative evidence indicates a reasonable basis to believe that the *contras* engage in acts of terroristic violence against unarmed civilians. To the extent that it is reasonably foreseeable that they will continue to engage in such acts, any provision of aid to the *contras*, directly or indirectly, by the government of the United States would render our government responsible for their acts.

The United States government cannot hide behind a veil of intentional ignorance. Although the evidence of frequent *contra* abuses may be rebuttable by an affirmative effort of the United States government, as of this date, no such effort has been made.

In the absence of any showing to the contrary, the evidence now extant of grievous *contra* violations of the rights of protected persons under international law must be presumed prima facie valid. The burden of persuasion has effectively shifted to those who assert that the *contras* have conducted themselves in a manner that permits the support of the United States. Unless it can be established to a reasonable certainty that the *contras* do not engage in such acts of illegal terroristic violence, regardless of any other considerations, further support by the United States is indefensible.

Recommendation

We recommend that the appropriate committees of the Congress investigate fully and completely acts of violence committed by the *contras*. Congress should not approve further assistance to the *contras* unless it determines that the *contras'* acts do not exhibit a consistent pattern of violation of the rights of persons who are not or are no longer taking an active part in hostilities. In the absence of contrary evidence, we recommend that the Congress prohibit any form of assistance, direct or indirect, to the *contras*.

We further recommend that the appropriate committees of the Congress investigate whether relevant executive departments and agencies have remained "intentionally ignorant" of these serious abuses committed by forces supported by the United States.

Biographies of the Members of Fact-Finding Delegation

Mr. Donald Fox is a senior partner in the New York law firm Fox, Glynn and Melamed. He graduated from New York University Law School in 1956 and also studied law in France at the University of Paris. He is a member of the New York State Bar and currently serves as Treasurer for the Bar of the City of New York.

Mr. Fox is a member of the executive committee of the American Association for the International Commission of Jurists. He is the author of a 1979 report on Human Rights in Guatemala and the editor of a 1979 study entitled *The Cambodian Incursion Legal Issues*.

Professor Michael Glennon teaches International and Constitutional Law at the University of Cincinnati Law School. He graduated from the University of Minnesota Law School in 1973.

From 1973 until 1977, Professor Glennon worked in the Senate Office of the Legislative Counsel, and from 1977 until 1980, he served as legal counsel to the Senate Foreign Relations Committee. Professor Glennon has written extensively on issues of law and foreign policy, and is the co-author (with Professor Thomas M. Franck) of a five-volume work, *United States Foreign Relations Law*.

SUPPLEMENTAL ANNEXES TO THE MEMORIAL OF NICARAGUA

Supplemental Annex A

CHRONOLOGICAL ACCOUNT OF MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA, APRIL-AUGUST 1985

In its Memorial of April 30, 1985, Nicaragua presented a detailed chronological account, based on evidence before the Court, of the facts establishing the use and threat of force by the United States against Nicaragua from March 1981 to April 1985. (See Memorial of Nicaragua of April 30, 1985, pp. 9-37, *supra*.) The following is intended to supplement the account set forth in the Memorial, covering events from April 1985 through August 1985. Among the most significant of these events were:

The appropriation by the United States Congress, and the enactment into domestic United States law, of an additional $27,000,000 for military and paramilitary activities in and against Nicaragua during the fiscal years 1985 and 1986;

Repeated statements by President Reagan, authoritative officials of his Administration, and senior members of the United States Congress that the purpose of United States policy in Nicaragua is to remove or change the government of Nicaragua;

Disclosures by senior United States government officials that the United States has been directly managing and controlling the military and political activities of the "Nicaraguan democratic resistance forces" that were created, armed, equipped and trained by the Central Intelligence Agency; and

A new military offensive by these United States-directed forces, penetrating deep into Nicaraguan territory and expressly aimed at seizing territory in the most densely populated zones of the country and bringing about political destabilization.

* * *

On *April 23, 1985*, the United States Senate debated President Reagan's request for $14,000,000 to continue military and paramilitary activities in and against Nicaragua in fiscal year 1985 (ending September 30, 1985). During the debate on this measure, Senator Patrick Leahy, Vice Chairman of the Senate Select Committee on Intelligence, which exercises oversight of all United States-directed "covert operations", including the military and paramilitary activities against Nicaragua, stated that the United States was:

> "supporting a secret war against Nicaragua, managed by the CIA, financed by the American taxpayers, and aimed at overthrowing a nation with which we maintain normal diplomatic relations". (131 *Cong. Rec.* S.4581 (April 23, 1985), Suppl. Ann. C, Attachment 1.)

Senator Leahy added that discussions of members of this committee with senior officials of the Reagan Administration, aimed at reaching a compromise policy not seeking the overthrow of the Nicaraguan government, had proven fruitless:

> "After those hours and hours of talks, the bottom line of the Administration never really changed. I frankly do not believe the President will ever change his view that we cannot live with Nicaragua and we must overthrow the Sandinistas." (131 *Cong. Rec.* S.4582 (April 23, 1985), Suppl. Ann. C, Attachment 1.)

Similarly, Senator Eagleton, another member of the Senate Select Committee on Intelligence, after noting that "the CIA conceived, planned and initiated a covert war" against Nicaragua, stated:

> "The Administration tells us that to continue support of the *contras* is the only way to maintain pressure on the Sandinistas to change, but one cannot help but wonder what change the Sandinistas could make short of signing their own death warrants which will satisfy the Administration." (131 *Cong. Rec.* S.4539 (April 23, 1985), Suppl. Ann. C, Attachment 1.)

At the conclusion of the debate, the Senate voted in favor of the $14,000,000 appropriation requested by President Reagan.

On *April 23-24, 1985*, the United States House of Representatives debated President Reagan's request for the $14,000,000. Like the Senate, the House of Representatives was also advised by senior members of its intelligence committee (known in the House of Representatives as the Permanent Select Committee on Intelligence) that the objective of the United States-directed military and paramilitary activities against Nicaragua was to overthrow the Nicaraguan government. Congressman Lee Hamilton, Chairman of the House Permanent Select Committee on Intelligence, stated:

> "The President has elevated the struggle to change the Sandinista government through military force to one of the highest priorities of his administration. On February 21, President Reagan said that it was United States policy to seek to remove the Sandinista government unless it changed its goals and present structure and allowed the *contras* into the government. He said 'you can say we're trying to oust the Sandinistas by what we're saying'.

* * *

Since 1981, various purposes have been advanced for the covert action against Nicaragua;

First, the United States sought to interdict the flow of arms from Nicaragua to El Salvador;

Then, to force Nicaragua to turn inward;

Then, to bring Nicaragua to the negotiating table;

Then, to bring pluralism and free elections to Nicaragua;

Then, to oust the Sandinistas.

Today United States policy statements on Nicaragua, especially those by the President, no longer emphasize the external conduct of Nicaragua but the removal of the Sandinistas. The President says we do not advocate the overthrow of the Sandinistas if they 'would turn around and . . . say uncle'.

> That phraseology is surely tantamount to requiring their removal." (131 *Cong. Rec.* H.2358-59 (April 23, 1985), Suppl. Ann. C, Attachment 2.)

At the conclusion of the debate, the House of Representatives voted 215-213 against President Reagan's request. Spokespersons for President Reagan commented that they were heartened by the closeness of the vote in the House of Representatives, that President Reagan would continue his efforts to obtain continued funding for military and paramilitary activities against Nicaragua, and that the President was confident he would ultimately persuade the Congress to approve such funding. President Reagan himself said on *April 29, 1985*:

> "I have not given up on the *contra* . . . the opponents in the Congress of ours who have opposed our trying to continue helping those people, they really are voting to have a totalitarian Marxist-Leninist government here in the Americas, and there's no way for them to disguise it. So we're not going to give up." (Suppl. Ann. B, Addition, Official Transcript, p. 397, *infra*.)

On *May 1, 1985*, Director of Central Intelligence William Casey, the head of the CIA, delivered a speech in New York in which he stated that the United States would not be satisfied by a treaty with Nicaragua barring Nicaragua from acts of external aggression, and that the objective of United States policy was to prevent "further consolidation of the régime". He stated:

> "The increasingly united Democratic Nicaraguan Opposition, both internal and external, is the major obstacle to Sandinista consolidation. The armed resistance, popularly known as the *contras*, is a vital part of this movement. Together, these groups encourage the erosion of support for the Sandinistas; create uncertainties about the future of the regime; challenge its claims of political legitimacy; and give hope to the Nicaraguan people . . .
>
> The growing and united opposition can increase the pressure until the Sandinista support has eroded sufficiently to leave them no option other than modifying their rejection of internal reconciliation and allowing for the same process of democratization that is taking place in the rest of Central America to occur in Nicaragua." ("DCI Remarks", Metropolitan Club of New York City, May 1, 1985, pp. 9-11, Suppl. Ann. B, Part II, Attachment 1.)

Also on *May 1, 1985*, President Reagan announced the imposition of economic sanctions against Nicaragua. The measures included a total embargo on trade with Nicaragua, and suspension of service to the United States by Nicaraguan airlines and vessels. Simultaneously, the United States notified Nicaragua of its intention to terminate the 1956 Treaty of Friendship, Commerce and Navigation between the two countries, upon the expiration of the one-year notice period provided in the Treaty. (Executive Order, May 1, 1985, and accompanying Message to Congress, Suppl. Ann. B, Part I, Attachments 2-3.) In his accompanying message to Congress, explaining the purpose of these sanctions, President Reagan stated: "I have long made clear that changes in Sandinista behavior must occur if peace is to be achieved in Central America." President Reagan specifically cited, as one of the principal "changes" sought by the United States, that Nicaragua "respect, in law and practice, democratic pluralism and observance of full political and human rights in Nicaragua". A Statement to the Press issued by the Office of the President further explained that:

> "The President remains convinced that the church-mediated dialogue between the government of Nicaragua and the unified democratic opposition, as called for by the resistance on March 1 and in the President's April 4

> peace proposal [see Nicaragua's Memorial on the Merits, p. 37, *supra*] could make a major contribution to resolution of conflict in the region. The President continues to believe that direct pressure presents the only effective means of moderating Nicaraguan behavior and is using the means available to him toward that end. He urges all Members of the Congress to support future requests for assistance to the Nicaraguan democratic resistance. He has also made it clear that the embargo does not apply to those goods destined for the organized democratic resistance." (Statement Issued on Behalf of President Reagan by the Principal Deputy Press Secretary to the President, in Bonn, 1 May 1985, Suppl. Ann. B, Part I, Attachment 3.)

On *May 10, 1985*, during a news conference in Lisbon, Portugal, President Reagan reiterated that the purpose of United States policy toward Nicaragua, including the military and paramilitary activities against the Nicaraguan government and the recently imposed trade embargo, was to force internal political changes in Nicaragua:

> "All we have ever sought is that they, as one faction — when I say 'they', I mean the Sandinista government. That Sandinista government has never been legitimized by the people. It is one faction of a revolution that overthrew a dictator. And they stole that revolution away from the other factions which we now call the *contras*. And the leaders of the *contras* were leaders in that revolution also.
>
> And in doing that, we have felt that what we — what we are seeking and trying to pressure them to do is to come together again in discussion and negotiations to restore the promises they, themselves, had made as to what the goals of the revolution were. And in doing that — and as I say, to refute their charges that we were somehow threatening them with aggression, and if you'll remember, there was a time when Mr. Ortega had us, every other week, landing the Marines in Nicaragua and we never had any intention to do such a thing. So we maintained our embassy there and continued our trade to show that — what we really wanted to do.
>
> And then, in this recent vote in the Congress, we found — Congressmen justifying their position on the grounds that how could we still be doing business and yet wanting to aid these — other faction of the revolution. And we have decided that pressure is needed to bring them to the realization that they should restore the original goals of the revolution." (Suppl. Ann. B, Part I, Attachment 4, Official Transcript, p. 383, *infra*.)

On *May 23, 1985*, Secretary of State George Shultz, in a speech to the American Bar Association, criticized the Congress for failing to appropriate additional funds for military and paramilitary activities against Nicaragua. Secretary Shultz warned that, if United States objectives in Nicaragua could not be accomplished through the mercenary forces supported and directed by the CIA, the United States would have to consider "the use of American combat troops". According to Secretary Shultz, "critics of United States military aid to the Nicaraguan freedom fighters would hold back the most effective lever we have on the communist regime". He continued, "by refusing to help the freedom fighters, even with humanitarian aid, they are hastening the day when the threat will grow and when we will be faced with an agonizing choice about the use of American combat troops". (Reprint of Department of State Bureau of Public Affairs, Suppl. Ann. B, Part II, Attachment 2, pp. 393-394, *infra*.)

On *May 30, 1985*, President Reagan continued to encourage private individuals and businesses in the United States to donate funds and supplies to the CIA-directed mercenary forces by sending a letter of support to the Nicaraguan Freedom Fund, a private group engaged in such fund-raising activities. United States policy had been to obtain funds from private sources, as a supplement to official funds, since mid-1984. [See Nicaragua's Memorial on the Merits, pp. 28-29, *supra*]. President Reagan's letter expressed his "wholehearted" support for the group's activities, and said that although private aid "cannot take the place of open, direct support from the United States Government", it would "complement" official assistance. "Only official aid from the United States can make the all-important symbolic point that we stand behind the forces of freedom and democracy around the world and against tyranny", President Reagan declared. (Suppl. Ann. B, Part I, Attachment 5; see also *Miami Herald*, June 16, 1985; *June 24*, 1985.)

On *June 4-5, 1985*, in extensive interviews with the *New York Times*, United States military and intelligence officers and other officials stated that the United States is fully prepared for a military invasion of Nicaragua. One intelligence official said that if such an invasion became necessary, it could be accomplished so easily that it would be "like falling off a log". The execution of such an invasion, according to these accounts, would be carried out through the United States Southern Command, headquartered in Panama, using airfields in Honduras as staging areas. These facilities would include Palmerola air base, home for a special United States military unit known as Joint Task Force Bravo, which was established in 1983 to train Honduran armed forces, build and maintain shared facilities, organize war games and assist American military missions in that area. The United States military and intelligence officers reported that an expansion of these activities had taken place in recent months, as had the improvement of intelligence-gathering facilities including electronic eavesdropping posts in the Gulf of Fonseca near Nicaragua. In addition, the officers reported, the United States was sending 1,800 troops to Honduras to construct a road to the airfield at San Lorenzo and practice paratrooper attacks against guerrillas. The United States Joint Task Force Commander in Honduras, Colonel Pearcy, said these exercises were intended, among other things, to remind the Nicaraguans of United States resolve. (*New York Times*, June 4, 1985; June 5, 1985.)

Also on *June 4-5, 1985*, President Reagan publicly called upon the Congress to reconsider its rejection of additional funds for CIA-directed military and paramilitary activities against Nicaragua. He requested a total of $38,000,000 to fund these activities in fiscal years 1985 and 1986. On June 4, he said: "it may be our last opportunity to persuade the Sandinista government to negotiate with the *contras*". (*Washington Post*, June 5, 1985.) The next day, during an appearance in Atlanta, Georgia, President Reagan said, "we must lend our support to those freedom fighters struggling for democracy in Nicaragua". (Suppl. Ann. B, Part I, Attachment 6, Official Transcript, p. 5.) Later that day, in Oklahoma City, Oklahoma, President Reagan made another public appeal for "a meager $14 million for the freedom fighters in Nicaragua". (Suppl. Ann. B, Part I, Attachment 7, Official Transcript, p. 385, *infra*.)

On *June 7, 1985*, the Senate voted in favor of President Reagan's request and authorized $38,000,000 in funds for the CIA-directed mercenaries for fiscal years 1985 and 1986. (131 *Cong. Rec.* S 7648, Suppl. Ann. C, Attachment 4.) President Reagan publicly applauded the Senate for its action. On *June 8*, in his weekly radio address to the nation, President Reagan said of the mercenaries, "The Senate has seen that their struggle is ours, that they need and deserve our help". He then urged the House of Representatives to approve a measure, introduced in that chamber of the Congress, calling for $27,000,000 for military and paramilitary activities against Nicaragua. President Reagan stated that peace would not come to Nicaragua until the Nicaraguan government "reconciles" with the mercenary forces, and until its internal policies satisfy the United States:

> "It is essential that this bipartisan amendment be passed without any weakening of its provisions in order for us to have a hope for peace, democracy and reconciliation in Nicaragua.
>
> The legislation will provide $27 million worth of assistance to the freedom fighters, and that's not much compared to the hundreds of millions the communists are spending to prop up their Nicaraguan dictatorship.
>
> The solution to the tragedy in Nicaragua is the very same the Congress has supported in El Salvador: liberty, democracy and reconciliation.
>
> In El Salvador, we've worked with Congress and stood firmly behind President Duarte and the democratic forces. We seek the same goals in Nicaragua. As in El Salvador, the United States stands with the democratic senator — Senate, I should say — against the enemies of liberty on both left and right. And the freedom fighters share our goals for democracy.
>
> One of their leaders, Adolfo Calero, said this week, 'We of the Nicaraguan democratic resistance believe that true peace can only come with democracy, and that democracy is a precondition for peace — not the other way around.'
>
> To seize this opportunity before us, to seize this second chance now offered, the Congress and the Executive Branch must embark on a bipartisan course for the negotiated political settlement, national reconciliation, democracy and genuine self-determination for the people of Nicaragua . . ." (Official Transcript, p. 399, *infra*, Suppl. Ann. B, Addition.)

On *June 11, 1985*, President Reagan sent a letter to Representative Dave McCurdy, one of the legislative sponsors of the proposal for $27,000,000 in further assistance to the mercenary forces, "to express [his] strongest support" for this proposal. This assistance was needed, according to President Reagan:

> "to enable the forces of democracy to convince the Sandinistas that real democratic change is necessary. Without the pressure of a viable and democratic resistance, the Sandinistas will continue to impose their will through repression and military force, and a regional settlement based on the Contadora principles will continue to elude us". (Reprinted at 131 *Cong. Rec.* H4093 (June 11, 1985), Suppl. Ann. B, Part I, Attachment 8.)

On *June 12, 1985*, the House of Representatives debated the $27,000,000 proposal. During the debate, the legislators were again advised that the purpose of the activities that would be funded by the $27,000,000 was the overthrow of the Nicaraguan government. Representative James Wright, Majority Leader of the House of Representatives and member *ex officio* of the Intelligence Committee, reminded his colleagues that:

> "[President Reagan] said just a few weeks ago that he wanted to force them [the Nicaraguan government] to say 'Uncle'. All of us know what that means. It is a term of physical surrender. That is the cry of the vanquished when overcome by superior force. Its utterance is the price of letting a defeated foe get up off the ground . . ." (131 *Cong. Rec.* H4152 (June 12, 1985), Suppl. Ann. C, Attachment 5.)

According to Representative Lee Hamilton, Chairman of the Intelligence Committee:

> "The United States policy of trying to change the government of Nica-

> ragua, or acting in such a manner as to persuade Nicaragua that we demand their overthrow, makes the United States unwilling to negotiate with Nicaragua and makes Nicaragua unwilling to negotiate with the United States. The United States cannot fund the *contras* whose purpose it is to overthrow the Sandinistas and claim to support, and persuade others that it does support, a negotiated settlement with the Sandinistas." (131 *Cong. Rec.* H4173-74 (June 12, 1985), Suppl. Ann. C, Attachment 5.)

At the conclusion of the debate, the House of Representatives voted in favor of the $27,000,000 appropriation. The only limitations were: that the funds could not be administered by the CIA or the Department of Defense, but had to be administered by another agency of the United States government; and that although the funds were to be used to support military and paramilitary activities against Nicaragua, they could not be used to purchase "lethal" objects. Thus, the funds were euphemistically called "humanitarian assistance". (131 *Cong. Rec.* H4200-4201, Suppl. Ann. C, Attachment 5.) Since the versions of the legislation approved by the House of Representatives differed from that approved by the Senate, a Conference Committee — composed of delegates from both chambers — met for the purpose of resolving the differences and agreed upon a common version to submit to the President for signature by him into law. This was soon accomplished.

On *June 17, 1985*, in an interview with *US News & World Report*, CIA Director William Casey reiterated United States support for the mercenaries, and indicated that if they fail to bring about changes in the Nicaraguan government, the United States would have to consider sending its own combat troops into Nicaragua. Mr. Casey claimed that the government of Nicaragua is not a "legitimate government" and that "every United States President since Franklin Roosevelt has authorized support of rebels opposing an oppressive or illegitimate government". The interview continued as follows:

> "*Question*: If doing something about the Sandinista government is in this country's interest, doesn't it follow logically that United States military intervention in some form becomes a clear possibility if the *contras* are unable to do the job themselves?
>
> *Answer*: I would only refer you to what Secretary of State George Shultz said on that. He said that if we fail to induce the Sandinistas to reform by backing the rebels, we may face a question of whether we could have to do it militarily.
>
> Look, if indeed what you have here is a second Cuba, this time on the American mainland, and we don't want to accept that permanent impairment of our security, the easiest way to do it is helping the people who want to resist it on the ground. If that fails and the Sandinistas consolidate, then it's a tough decision." (*US News & World Report*, June 17, 1985, Suppl. Ann. B, Part II, Attachment 3.)

On *August 8* and *August 16, 1985*, President Reagan signed into law the appropriation of $27,000,000 for the mercenary forces in fiscal years 1985 and 1986, as ultimately agreed upon by the Senate and the House of Representatives. This was accomplished through two separate enactments, one covering each fiscal year. The new law stated:

> "*(g)* HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—(1) Effective upon the date of enactment of this Act, there are authorized to be appropriated $27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance

> shall be provided in such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.
>
> (2) The assistance authorized by this subsection is authorized to remain available for obligation until March 31, 1986." (Conference Report on S.960, amending the Foreign Assistance Act of 1961, Sec. 722 (g), published at 131 *Cong. Rec.* H6721 (July 29, 1985), Suppl. Ann. C, Attachment 7.)

The new law, unlike enactments covering previous fiscal years, did not prohibit the CIA from using its discretionary funds to supplement the $27,000,000 appropriation contained in the law, and this made it possible for the CIA to provide additional assistance to the mercenaries. (131 *Cong. Rec.* H4153-54 (June 12, 1985), Suppl. Ann. C, Attachment 5.) Moreover, as explained in the Joint Explanatory Statement of the Committee of Conference responsible for formulating the final language of the legislation, although the CIA and Defense Department were prohibited from directly administering the $27,000,000 appropriated for the mercenary forces:

> "Nothing in the provision restricts either agency from providing to other agencies of the United States government advice, information, or intelligence which would be useful to the implementation of this assistance." (131 *Cong. Rec.* H6742 (July 29, 1985), Suppl. Ann. C, Attachment 7.)

Subsequently, the Reagan Administration announced the establishment of a special office within the State Department to administer the $27,000,000 appropriated to the mercenary forces. (*Washington Post*, August 29, 1985; *New York Times*, August 30, 1985.)

Reinvigorated and reinforced by the appropriation of these funds, the mercenary forces launched another major military offensive, attacking towns and villages deep inside Nicaragua. Their stated objective was to carry the war to Nicaragua's population centers, to take and hold territory, and to bring about the political destabilization of the country. At least 2,500 mercenaries participated in this offensive. Many Nicaraguan government soldiers, and an even higher number of civilians, were killed. In an attack on the town of Cuapa, the mercenaries followed instructions contained in the psychological warfare manual prepared for them by the CIA, and sought out Sandinista officials in the town to be "neutralized". They took 12 local militiamen and officials prisoner, marched them out of the city, and executed 11 of them, throwing the bodies in a nearby ditch. This pattern was repeated in other towns and villages, including La Trinidad, where mercenary forces went from house to house killing persons suspected of belonging to the Sandinista Front. The mercenaries' offensive continues at the time of this writing. (*Washington Post*, August 8, 1985; *Los Angeles Times*, August 3, 1985.)

In *August 1985*, senior officials of the United States government continued to state publicly that the objective of United States policy was to change the government of Nicaragua, and they revealed further details about the United States government's management of the mercenary forces and the conduct of the military and paramilitary activities against Nicaragua.

On *August 17*, the Assistant Secretary of State for Inter-American Affairs, Elliott Abrams, said that no agreement between Nicaragua and the United States could be achieved unless the government of Nicaragua is changed:

> "Why do we insist on internal reconciliation [between the government of Nicaragua and the armed forces opposing it]? Because the only guarantee that security agreements that are made will stick is internal democracy . . .

> It is preposterous to think we could sign a deal with the Sandinistas to meet our foreign policy concerns and expect it to be kept." (*New York Times*, August 18, 1985.)

On *August 27*, the Deputy Assistant Secretary of Defense for Inter-American Affairs, Nestor D. Sanchez, reiterated that peace in Nicaragua could not be achieved in the absence of "changes in the makeup" of the Nicaraguan government. According to Mr. Sanchez,

> "[t]here will have to be some changes in the behavior and politics of some of the rulers, and there may have to be changes in the ones who do not want to change — they will have to be changed themselves". (*Washington Times*, August 27, 1985.)

Other authoritative United States officials revealed that United States Marine Corps Lt.-Col. Oliver L. North, a senior member of the staff of the National Security Council — who, as Deputy Director for Political Military Affairs serves as an aide to National Security Advisor Robert C. MacFarlane — was, since 1984, providing direct "assistance" to the mercenary forces in military tactics and operations, including the selection of "targets" to attack inside Nicaragua, as well as in raising funds. Lt.-Col. North also facilitated the supplying of logistical help to the mercenaries after the CIA — which had previously managed almost every aspect of their activities — was prohibited by the Congress from continuing to do so. (*New York Times*, August 8, 1985; *Washington Post*, August 9, 1985; *Washington Post*, August 11, 1985.) One senior Administration official said,

> "when the Agency [CIA] was pulled out of this program, these guys didn't know how to buy a Band-aid. They new nothing of logistics, the CIA had been doing all of that." (*New York Times*, August 13, 1985.)

Another senior White House official said Lt.-Col. North had detailed knowledge of the mercenaries' weapons procurement efforts, and confirmed that after the CIA ceased to be involved he made frequent trips to mercenary camps in Central America, in a United States government airplane. (*New York Times*, August 10, 1985.) Lt.-Col. North also caused various mercenary factions to form a united military command, according to Administration officials. (*Time*, August 19, 1985; *Washington Post*, August 14, 1985; *New York Times*, August 13, 1985.) National Security Adviser MacFarlane, explaining Lt.-Col. North's activities after they were disclosed in the press, said, "we had a national interest in keeping in touch with what was going on, and second, in not breaking faith with the freedom fighters". (*Washington Post*, August 11, 1985.) Commenting on these disclosures, Representative Anthony C. Beilenson, a member of the House Permanent Select Committee on Intelligence, said "[i]t just makes it unmistakably clear that it's our war. They are waging it in every way except with American troops." (*New York Times*, August 1985.)

Supplemental Annex B

STATEMENTS OF PRESIDENT RONALD REAGAN AND SENIOR OFFICIALS OF HIS ADMINISTRATION

I. STATEMENTS OF PRESIDENT RONALD REAGAN

Attachment 1

Executive Order of President Ronald Reagan Prohibiting Trade and Certain Other Transactions Involving Nicaragua, May 1, 1985

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 *USC* 1701 *et seq.*), the National Emergencies Act (50 *USC* 1601 *et seq.*), chapter 12 of Title 50 of the United States Code (50 *USC* 191 *et seq.*), and section 301 of Title 3 of the United States Code,

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the government of Nicaragua constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby prohibit all imports into the United States of goods and services of Nicaraguan origin; all exports from the United States of goods to or destined for Nicaragua, except those destined for the organized democratic resistance, and transactions relating thereto.

I hereby prohibit Nicaraguan air carriers from engaging in air transportation to or from points in the United States and transactions relating thereto.

In addition, I hereby prohibit vessels of Nicaraguan registry from entering into United States ports, and transactions relating thereto.

The Secretary of the Treasury is delegated and authorized to employ all powers granted to me by the International Emergency Economic Powers Act to carry out the purposes of this Order.

The prohibitions set forth in this Order shall be effective as of 12.01 am, Eastern Daylight Time, May 7, 1985, and shall be transmitted to the Congress and published in the *Federal Register*.

(*Signed*) Ronald REAGAN.

The White House,
May 1, 1985.

Attachment 2

Message of President Ronald Reagan to the Congress of the United States concerning Trade Sanctions against Nicaragua, May 1, 1985

Pursuant to section 204 (*b*) of the International Emergency Economic Powers

Act, 50 *USC* 1703, I hereby report to the Congress that I have exercised my statutory authority to declare a national emergency and to prohibit: (1) all imports into the United States of goods and services of Nicaraguan origin; (2) all exports from the United States of goods to or destined for Nicaragua except those destined for the organized democratic resistance; (3) Nicaraguan air carriers from engaging in air transportation to or from points in the United States; and (4) vessels of Nicaraguan registry from entering into United States ports.

These prohibitions will become effective as of 12.01 am, Eastern Daylight Time, May 7, 1985.

I am enclosing a copy of the Executive Order that I have issued making this declaration and exercising these authorities.

1. I have authorized these steps in response to the emergency situation created by the Nicaraguan government's aggressive activities in Central America. Nicaragua's continuing efforts to subvert its neighbors, its rapid and destabilizing military buildup, its close military and security ties to Cuba and the Soviet Union and its imposition of communist totalitarian internal rule have been described fully in the past several weeks. The current visit by Nicaraguan President Ortega to Moscow underscores this disturbing trend. The recent rejection by Nicaragua of my peace initiative, viewed in the light of the constantly rising pressure that Nicaragua's military buildup places on the democratic nations of the region, makes clear the urgent threat that Nicaragua's activities represent to the security of the region and, therefore, to the security and foreign policy of the United States. The activities of Nicaragua, supported by the Soviet Union and its allies, are incompatible with normal commercial relations.

2. In taking these steps, I note that during this month's debate on United States policy toward Nicaragua, many Members of Congress, both supporters and opponents of my proposals, called for the early application of economic sanctions.

3. I have long made clear that changes in Sandinista behavior must occur if peace is to be achieved in Central America. At this time, I again call on the Government of Nicaragua:

- to halt its export of armed insurrection, terrorism, and subversion in neighboring countries;
- to end its extensive military relationship with Cuba and the Soviet Bloc and remove their military and security personnel;
- to stop its massive arms buildup and help restore the regional military balance; and
- to respect, in law and in practice, democratic pluralism and observance of full political and human rights in Nicaragua.

4. United States application of these sanctions should be seen by the government of Nicaragua, and by those who abet it, as unmistakable evidence that we take seriously the obligation to protect our security interests and those of our friends. I ask the government of Nicaragua to address seriously the concerns of its neighbors and its own opposition and to honor its solemn commitments to non-interference, non-alignment, respect for democracy, and peace. Failure to do so will only diminish the prospects for a peaceful settlement in Central America.

(*Signed*) Ronald REAGAN.

The White House,
May 1, 1985.

Attachment 3

Statement Issued on Behalf of President Reagan by the Principal Deputy Press Secretary to the President, in Bonn, May 1, 1985

The President has ordered the imposition by the United States of economic sanctions against the government of Nicaragua under authority granted by the International Emergency Economic Powers Act and other authorities. The sanctions include a total embargo on trade with Nicaragua, notification of United States intent to terminate its Treaty of Friendship, Commerce, and Navigation with Nicaragua, and the suspension of service to the United States by Nicaraguan airlines and Nicaraguan flag vessels. A report on these actions is being sent today to the Congress.

The President authorized these steps in response to the emergency situation created by the Nicaraguan government's aggressive activities in Central America. Nicaragua's continuing efforts to subvert its neighbors, its rapid and destabilizing military buildup, its close military and security ties to Cuba and the Soviet Union, and its imposition of communist totalitarian internal rule have been described fully in the past several weeks. Since the House of Representatives failed to act on the President's peace initiative, there have been further indications of this disturbing trend:

- the new ties between Nicaragua and the Soviet Union announced by *Tass* in connection with Daniel Ortega's current trip to Moscow;
- the recent apprehension in Honduras of seven agents of the Nicaraguan state security service, who admitted that they have traveled to Honduras from Nicaragua in order to aid and assist Honduran insurgents;
- delivery last week to Nicaragua by the Soviet Union of additional MI-8/17 helicopters;
- the delivery last week by East Germany of a large shipment of military transport equipment to Nicaragua; and
- the rejection by Nicaraguan leaders of any possible church-mediated dialogue with the democratic opposition of Nicaragua.

These events and the recent Nicaraguan rejection of the President's peace initiative, viewed in the light of the constantly rising pressure that Nicaragua's military buildup places on the democratic nations of the region, makes clear the urgent threat that Nicaragua's activities represent to the security of the region, and, therefore, to the security and foreign policy of the United States. The activities of Nicaragua, supported by the Soviet Union and its allies, are incompatible with normal commercial relations.

During the month-long debate on United States policy toward Nicaragua, many Members of Congress, both supporters and opponents of the Administration's proposals, called for the early application of economic sanctions. It should be understood, however, that the President does not consider the imposition of these sanctions to be a substitute for United States assistance to the unified democratic opposition.

The Administration has long made clear that changes in Sandinista behavior must occur if peace is to be achieved in Central America. In making this announcement, the President again calls on the government of Nicaragua:

- to halt its export of armed insurrection, terrorism and subversion in neighboring countries;
- to end its extensive military relationship with Cuba and the Soviet Bloc and remove their military personnel;

to stop its massive arms buildup and help restore the regional military balance; and

to respect, in law and in practice, democratic pluralism and observance of full political and human rights in Nicaragua.

The Administration has repeatedly urged the Government of Nicaragua to respect its 1979 commitments to the OAS and more recently to the 1983 Contadora Document of Objectives, whose terms closely parallel our own basic objectives. Heretofore the Sandinistas have ignored or rejected all such appeals. The American Embassy in Managua has just renewed with the government of Nicaragua the President's strong endorsement for internal dialogue and reiterated his firm intention to pursue United States interests and national objectives in Central America. In this regard, it should be noted that the measures being instituted by the President are easily rescinded if Nicaragua acts to relieve our concerns.

The President remains convinced that the church-mediated dialogue between the government of Nicaragua and the unified democratic opposition, as called for by the resistance on March 1 and in the President's April 4 peace proposal, could make a major contribution to resolution of conflict in the region. The President continues to believe that direct pressure presents the only effective means of moderating Nicaraguan behavior and is using the means available to him toward that end. He urges all members of the Congress to support future requests for assistance to the Nicaraguan democratic resistance. He has also made it clear that the embargo does not apply to those goods destined for the organized democratic resistance. Nor will it apply to donations of articles such as food, clothing and medicine intended to be used to relieve human suffering.

In the meantime, United States application of these measures should be seen by the government of Nicaragua, and by those who abet it, as unmistakable evidence that we take seriously the obligation to protect our security interests and those of our friends. The President calls again on the government of Nicaragua to address seriously the concerns of its neighbors and its own democratic opposition and to honor its solemn commitments to non-interference, non-alignment, respect for democracy and peace. Failure to do so will only diminish the prospects for a peaceful settlement in Central America.

* * *

Attachment 4

News Conference by President Ronald Reagan, in Lisbon, May 10, 1985
(Transcript, Office of the Press Secretary to the President)

……

Question: Yes, Sir. Almost everywhere that you went in Europe, the foreign leaders opposed the Nicaraguan trade embargo and we now hear that Costa Rica has opposed it. Why is it, Sir, that some of your closest allies don't back you on this and don't seem to feel that Ortega and the Sandinistas are the threat that you think he is?

The President: I don't think there's any question, Chris, that they don't agree with us about the threat — they do. They know what Nicaragua is. On the other hand, we're running into a kind of a philosophical difference here, I think, with regard to sanctions. We did a lot of soul-searching about it ourselves. There are a number of people and certainly a number of governments who just don't believe in that as a legitimate weapon.

On the other hand, when we were trying to get aid for the people of Nicaragua in their struggle for democracy and against totalitarianism, many of our own people in the Congress brought up the fact of how could we be doing this at the same time that we continued to maintain relations. Well, we had continued to maintain relations, and even including trade relations, with them as a refutation of their charge that we were seeking their overthrow.

All we have ever sought is that they, as one faction — when I say "they", I mean the Sandinista government. That Sandinista government has never been legitimized by the people. It is one faction of a revolution that overthrew a dictator. And they stole that revolution away from the other factions which we now call the *contras*. And the leaders of the *contras* were leaders in that revolution also.

And in doing that, we have felt that what we — what we are seeking and trying to pressure them to do is to come together again in discussion and negotiations to restore the promises they, themselves, had made as to what the goals of the revolution were. And in doing that — and as I say, to refute their charges that we were somehow threatening them with aggression, and if you'll remember, there was a time when Mr. Ortega had us, every other week, landing the Marines in Nicaragua and we never had any intention to do such a thing. So we maintained our embassy there and continued our trade to show that — what we really wanted to do.

And then, in this recent vote in the Congress, we found — Congressmen justifying their position on the grounds that how could we still be doing business and yet wanting to aid these — other faction of the revolution. And we have decided that pressure is needed to bring them to the realization that they should restore the original goals of the revolution.

Question: In recent days, Mr. Gorbachev has had some rather harsh things to say about the United States and about you. If there is a summit meeting, what would you have to talk about and what do you think that such a meeting could reasonably produce in the current climate?

. . . .

Attachment 5

Letter from President Ronald Reagan to William Simon, Chairman of the "Nicaraguan Freedom Fund", May 30, 1985 (Reprinted in the *Washington Times*, June 5, 1985)

The White House
Washington

May 30, 1985.

Dear Bill:

When I returned from my ten-day trip to West Europe, I was very moved to learn that you are heading a bi-partisan effort to provide humanitarian assistance to the latest victims of communism's continuing inhumanity: the Nicaraguan Resistance, their families, and the refugees. I am not surprised. You and your colleagues, Jeane Kirkpatrick, Michael Novak and Midge Decter represent the noblest instincts of America — to help those in need and to confound the enemies of liberty and peace.

Your private efforts to help have my wholehearted support, but I know you agree that your food, and clothing, and medicine cannot take the place of open, direct support from the United States Government. They must complement each other. Only official aid from the United States can make the all-important symbolic point that we stand behind the forces of freedom and democracy around the world and against tyranny. You can feed their bodies, but only the Congress can feed their souls.

Accordingly, in the days ahead, I shall once again ask the House and Senate to grant assistance to the Democratic Resistance in Nicaragua. I hope their vote will make me as proud as your own efforts have done.

Sincerely,

Ron.

The Honorable William Simon,
330 South Street,
Morristown, New Jersey 07960.

Support from the Top

Former Treasury Secretary William Simon, chairman of the Nicaraguan Freedom Fund, recently received this strong letter of support for the fund from President Reagan. Establishment of the humanitarian aid fund was announced May 8.

Attachment 6

Remarks of President Ronald Reagan in Atlanta, Georgia, June 5, 1985 (Transcript, Office of the Press Secretary to the President)

[Not reproduced]

Attachment 7

Remarks of President Ronald Reagan in Oklahoma City, Oklahoma, June 5, 1985 (Transcript, Office of the Press Secretary to the President)

. . . .

Congress can no longer ignore the obvious: the Soviet Bloc nations and their terrorist allies are pouring in weapons and ammunition to establish a beachhead on our own doorstep. Top defectors from the El Salvadoran guerrillas have given us detailed information about the guidance, the training, the funds and the ammunition that they receive from the communists in Nicaragua to overthrow the El Salvadoran Democratic government that they have finally achieved. It was a dark day for freedom when, after the Soviet Union spent $500 million to impose communism in Nicaragua, the United States Congress could not support a meager $14 million for the freedom fighters in Nicaragua who were opposed to that totalitarian government.

. . . .

Attachment 8

Letter of President Ronald Reagan to US Representative Dave McCurdy, June 11, 1985 (Reprinted at 131 *Cong. Rec.* H4093, June 11, 1985)

President supports bipartisan proposal to assist forces of democracy in Nicaragua

(Mr. McCurdy asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCurdy. Mr. Speaker, I insert in the *Record* a letter I received from President Reagan today, and I would like to highlight a couple points that the President made when he addressed this letter to me. He said:

> "Dear Congressman McCurdy: I am writing to express my strongest support for your bipartisan proposal to assist the forces of democracy in Nicaragua . . ."

He said:

> "My Administration is determined to pursue political, not military, solutions in Central America. Our policy for Nicaragua is the same as for El Salvador and all of Central America: to support the democratic center against the extremes of both the right and left, and to secure democracy and lasting peace through national dialogue and regional negotiations. We do not seek the military overthrow of the Sandinista government or to put in its place a government based on supports of the old Somoza régime . . .
>
> We oppose a sharing of political power based on military force rather than the will of the people expressed through free and fair elections . . . It is also the position of the Nicaraguan opposition leaders, who have agreed that executive authority in Nicaragua should change only through elections . . ."

President Reagan also indicates he takes seriously my concern about human rights. He says:

> "The US condemns, in the strongest possible terms, atrocities by either side. We are committed to helping the democratic resistance in applying strict rules regarding proper treatment of prisoners and the civilian population . . ."

Mr. Speaker, the text of the President's letter is as follows:

"The White House,
Washington, DC.

Hon. Dave McCurdy,
House of Representatives, Washington, DC.

Dear Congressman McCurdy, I am writing to express my strongest support for your bipartisan proposal to assist the forces of democracy in Nicaragua. It is essential to a peaceful resolution of the conflict in Central America that the House of Representatives pass that proposal, without any weakening amendments.

My Administration is determined to pursue political, not military, solutions in Central America. Our policy for Nicaragua is the same as for El Salvador and all of Central America: to support the democratic center against the extremes of both the right and left, and to secure democracy and lasting peace through national dialog and regional negotiations. We do not seek the military overthrow of the Sandinista government or to put in it's place a government based on supporters of the old Somoza regime.

Just as we support President Duarte in his efforts to achieve reconciliation in El Salvador, we also endorse the unified democratic opposition's March 1, 1985, San Jose Declaration which calls for national reconciliation through a church-mediated dialog. We oppose a sharing of political power based on military force rather than the will of the people expressed through free and fair elections. That is the position of President Duarte. It is also the position of the Nicaraguan opposition leaders, who have agreed that executive authority in Nicaragua should change only through elections.

It is the guerrillas in El Salvador — and their mentors in Managua, Havana and Moscow — who demand power sharing without elections. And it is the Sandinistas in Nicaragua who stridently reject national reconciliation through democractic processes. Our assistance has been crucial to ensuring that democracy has both the strength and will to work in El Salvador. In Nicaragua, our support is also needed to enable the forces of democracy to convince the Sandinistas that real democratic change is necessary. Without the pressure of a viable and democratic resistance, the Sandinistas will continue to impose their will through repression and military force, and a regional settlement based on the Contadora principles will continue to elude us.

I understand that two 'perfecting' amendments will be offered that will seek to nullify the intent of your proposal. One, supported by Ed Boland, would prohibit the exchange of information with the democratic resistance and permanently deny even humanitarian assistance because it would 'have the effect' of supporting 'directly or indirectly' the military efforts of the resistance. The other, supported by Dick Gephardt, would prohibit humanitarian assistance for at least six months and then continue the prohibition until Congress votes yet again.

The Boland amendment is clearly intended to have the same effect as the Barnes amendment that was rejected by the House in April. If the Boland prohibitions are enacted, the only way humanitarian assistance could be provided would be for the recipients to abandon their struggle and become refugees. The Gephardt proposal, guaranteeing the Sandinistas six additional months without effective pressure, would send a signal of irresolution to friends and adversaries, while denying the democratic resistance help that it so desperately needs. These amendments would prevent us from providing humanitarian assistance and exchanging information to sustain and preserve the democratic resistance. They would effectively remove the resistance as a source of pressure for dialog and internal reconciliation. If those struggling for democracy are not supported, or worse, forced to become refugees, the Sandinistas will be encouraged to press their military advantage and the prospects for a peaceful resolution will be diminished.

I take very seriously your concern about human rights. The United States condemns, in the strongest possible terms, atrocities by either side. We are committed to helping the democratic resistance in applying strict rules regarding proper treatment of prisoners and the civilian population. And we urge their leaders to investigate allegations of past human rights abuses and take appropriate actions to prevent future abuses.

I recognize the importance that you and others attach to bilateral talks between the United States and Nicaragua. It is possible that in the proper circumstances, such discussions could help promote the internal reconciliation called for by Contadora and endorsed by many Latin American leaders. Therefore, I intend to instruct our special Ambassador to consult with the governments of Central America, the Contadora countries, other democratic governments, and the unified Nicaraguan opposition as to how and when the United States could resume useful direct talks with Nicaragua. However, such talks cannot be a substitute for a church-mediated dialog between the contending factions and the achievement of a workable Contadora agreement. Therefore, I will have our representative meet again with representatives of Nicaragua only when I determine that such a meeting would be helpful in promoting these ends.

Experience has shown that a policy of support for democracy, economic opportunity, and security will best serve the people of Central America and the national interests of the United States. If we show consistency of purpose, if we are firm in our conviction, we can help the democratic center prevail over tyrants of the left or the right. But if we abandon democracy in Nicaragua, if we tolerate the consolidation of a surrogate state in Central America responsive to Cuba and the Soviet Union, we will see the progress that has been achieved in neighboring countries begin to unravel under the strain of continuing conflict, attempts at subversion, and loss of confidence in our support.

There can be a more democratic, more prosperous, and more peaceful Central America. I will continue to devote my energies toward that end, but I also need the support of the Congress. I hope the House will support your legislation.

Sincerely,

Ronald REAGAN."

Attachment 9

Remarks of President Ronald Reagan to the American Bar Association, July 8, 1985 (Transcript, Office of the Press Secretary to the President)

. . . .

And finally there is the latest partner of Iran, Libya, North Korea and Cuba in a campaign of international terror — the communist régime in Nicaragua.

The Sandinistas not only sponsor terror in El Salvador, Costa Rica and Honduras — terror that led recently to the murder of four United States Marines, two civilians, and seven Latin Americans. They provide one of the world's principal refuges for international terrorists.

Members of the Italian government have openly charged that Nicaragua is harboring some of Italy's worst terrorists. And when we have evidence that in addition to Italy's Red Brigades, other elements of the world's most vicious terrorists groups — West Germany's Baader-Meinhoff Gang, the Basque ETA, the PLO, the Tupamaros, and the IRA have found a haven in Nicaragua and support from that country's communist dictatorship.

In fact, the communist régime in Nicaragua has made itself a focal point for the terrorist network and a case study in the extent of its scope.

Consider for just a moment that in addition to establishing strong international alliances with Cuba and Libya, including the receipt of enormous amounts of arms and ammunition, the Sandinistas are also receiving extensive assistance from North Korea. Nor are they reluctant to acknowledge their debt to the government of North Korea dictator Kim Il-sung. Both Daniel and Humberto Ortega have recently paid official and State visits to North Korea to seek additional assistance and more formal relations.

So we see the Nicaraguans tied to Cuba, Libya and North Korea. And that leaves only Iran. What about ties to Iran? Well, yes, only recently the Prime Minister of Iran visited Nicaragua bearing expressions of solidarity from the Ayatollah for the Sandinista communists.

Attachment 10

Statement by President Ronald Reagan, August 16, 1985 (Transcript, Office of the Press Secretary to the President)

I have signed H.R.2577, the Supplemental Appropriations Act for 1985. The act provides additional funding for a number of important programs, including economic aid to several nations in the Middle East, essential humanitarian aid to the Nicaraguan Democratic Resistance, funding for improving security at our embassies and facilities abroad, and start-up funding for several water projects.

H.R.2577 provides funds that I requested to support the Nation's foreign policy. It will contribute significantly to our ability to provide urgently required aid to our friends in the Middle East and will support our efforts to bring peace to the region. I would note in particular the funds it appropriates for both Israel and Egypt, as well as for Jordan. All three of these nations have a vital role to play if there is to be peace in the Middle East.

Moreover, the act contains $27 million in funding for humanitarian assistance to the Nicaraguan Democratic Resistance. While the program that has been approved is more modest than I believe necessary, we have clearly won bipartisan support on this very critical issue as well as recognition and humanitarian support for those fighting the Sandinista dictatorship. This is an important element in our overall effort to assist neighboring countries to defend themselves against Nicaraguan attack and subversion. Unfortunately, the provision unduly and unnecessarily restricts efficient management and administration of the program. Nevertheless, I will continue to work with the Congress to carry out the program as effectively as possible and will take care to assure that the law is faithfully executed.

. . . .

II. STATEMENTS OF SENIOR REAGAN ADMINISTRATION OFFICIALS

Attachment 1

Remarks of Director of Central Intelligence William J. Casey, Metropolitan Club of New York City, May 1, 1985

. . . .

In Nicaragua, the communist government killed outright several hundred Somoza supporters during the summer of 1979. In 1982, it forcibly relocated some 15,000 Miskito Indians to detention camps, forced many more to flee to refugee camps in Honduras, and burned some 40 Indian villages. Last month, the Sandinistas announced plans to forcibly move 40,000 campesinos from areas close to the Honduran border. They have already moved some 20,000 campesinos from the southern border area and along the east coast, burning homes and killing cattle.

. . . .

The American Intelligence Community over recent months unanimously concurred in four National Estimates on the military buildup, the Marxist-Leninist consolidation, and the strategic objectives of the Soviets, the Cubans and the Sandinistas in Nicaragua. If I were to boil the key judgments of those estimates down to a single sentence it would be this. The Soviet Union and Cuba have established and are consolidating a beachhead on the American continent, are putting hundreds of millions of dollars worth of military equipment into it, and have begun to use it as a launching pad to carry their style of aggressive subversion into the rest of Central America and elsewhere in Latin America.

Let me review quickly what has already happened in Nicaragua. The Sandinistas have developed the best-equipped military in the region. They have an active strength of some 65,000 and a fully mobilized strength including militia and reserves of nearly 120,000. These forces are equipped with Soviet tanks, armored vehicles, state of the art helicopters, patrol boats and an increasingly comprehensive air defense system. This gives the Sandinistas a military capability far beyond that of any other Central American nation.

In addition to this military hardware, there are now in Nicaragua an estimated 6,000-7,500 Cuban military and civilian advisors and other communist and radical Arab totaling several hundred, assisting the régime in its military buildup and its consolidation of power.

Under Cuban direction and guidance, the Sandinista security service helps the régime establish control over the media, create and spread propaganda and disinformation mechanisms and neutralize or expel those who oppose the Sandinista totalitarianism.

Today, we see Managua becoming to Central and Latin America what Beirut was to the Middle East since 1970 when the PLO was expelled from Jordan and Lebanon became the focal point for international and regional terrorists. Managua's support for training of Central American subversives is well documented—they support Salvadoran communists, Guatemalan communists, radical leftists in Costa Rica, and are attempting to increase the number of radical leftist terrorists in Honduras. More recent evidence indicates Nicaraguan support for some South American terrorist groups and growing contacts with other international terrorist groups.

Yet, just last week the American Congress refused to approve $14 million for people resisting communist domination of Nicaragua, on the very day that a Soviet ship unloaded about $10 million worth of helicopters, trucks and other military cargo at Corinto, the principal port in Nicaragua. On the very next day, Ortega, the Nicaraguan communist dictator, traveled to Moscow to ask the Soviet Union to make $200 million available to him to consolidate a Leninist-Communist dictatorship across a stretch of land which separates South America from North America.

. . . .

A worldwide propaganda campaign has been mounted and carried out on behalf of the Sandinista régime and Salvadoran guerrillas which would not have been possible without the capabilities, the contacts and the communications channels provided by the Soviet Bloc and Cuba. The Sandinistas themselves have shown remarkable ingenuity and skill in projecting disinformation into the United States itself. Perhaps the best example of this is the systematic campaign to deceive well-intentioned members of the western media and of western religious institutions.

There are many examples of Nicaraguan deception. The Sandinista press, radio and government ministry have put out claims that the United States used chemical weapons in Grenada, that the United States was supplying Nicaraguan freedom fighters with drugs, and that the United States might give the opposition bacteriological weapons.

The debate in the Congress last week disclosed few who think that what is happening in Central America is a desirable state of affairs or that it is compatible with avoiding a possibly permanent impairment of our national security and a serious deterioration in the American geopolitical position in the world.

There are some who will be content with an agreement that the Nicaraguans will now forego further aggression. Our experience in Korea and Indochina provides some lessons on the value of agreements with communist governments. North Korea started to violate the Korean Armistice within days of the truce signing.

. . . .

We believe the Sandinistas main objective in regional negotiations is to buy time to further consolidate the régime. History and the record and purposes of Marxist-Leninist régimes in general and the Sandinistas in particular lead us to believe that unless Nicaragua has implemented a genuine democracy, as promised to the OAS, their assurances could not be adequately verified and would not be complied with. Cuban officials have urged the Salvadoran communist guerrillas to slow down their attacks against the Duarte government in order to fortify and consolidate the Nicaraguan revolution. We believe that Cuba has assured the Salvadoran communists that it might take as long as five to ten years, but as long as the Sandinista régime in Nicaragua remains, that country will serve as a base for communist expansion in the area and the Salvadoran insurgency will be renewed once the Sandinistas have been able to eliminate the armed resistance in Nicaragua.

……

Today, the Cuban and Nicaraguan military forces are together four times the size of those of Mexico and are equipped with vastly superior weapons. Today, with armed forces larger and better equipped than the rest of Central America, Nicaragua could walk through Costa Rica, which has no army, to Panama, and Cuba can threaten our vital sea lanes in the Caribbean.

The increasingly United Democratic Nicaraguan Opposition, both internal and external, is the major obstacle to Sandinista consolidation. The armed resistance, popularly known as the *contras*, is a vital part of this movement. Together, these groups encourage the erosion of support for the Sandinistas; create uncertainties about the future of the régime; challenge its claims of political legitimacy; and give hope to the Nicaraguan people.

The largest anti-Sandinista insurgent group, the FDN, is still providing strong military resistance despite cutoff of United States aid almost a year ago. Popular sympathy for the insurgents appears to be increasing in the countryside, and the FDN continues to receive significant numbers of new recruits.

The growing and united opposition can increase the pressure until the Sandinista support has eroded sufficiently to leave them no option other than modifying their rejection of internal reconciliation and allowing for the same process of democratization that is taking place in the rest of Central America to occur in Nicaragua.

Attachment 2

Address by Secretary of State George Shultz before the American Bar Association, May 23, 1985

Following is an address by Secretary Shultz before the American Bar Association, Washington, D.C., May 23, 1985.

……

United States Policy in Central America

This brings me to Central America. Here, too, there is really a deep and broad measure of consensus in this country about our nation's goals.

We have broad bipartisan agreement that United States policy in Central America should foster democracy, economic progress, social reform, and regional security. We also agree on the underlying economic and social causes of instability in Central America. In the past four years, 77 per cent of our aid to the region has been economic, not military. At the suggestion of a giant of bipartisanship, the late Senator Henry Jackson, President Reagan in 1983 appointed a distinguished commission to find a basis for a bipartisan policy for the region.

Headed by Henry Kissinger, the commission included three leading Democrats: Robert Strauss, a former party chairman; Lane Kirkland, president of the AFL-CIO; and Mayor Henry Cisneros of San Antonio. As recommended by the commission, we have requested enactment of an $8 billion aid program over 5 years. Congress has approved $1.8 billion, and the authorization of the balance is in the foreign aid bills now pending. The Caribbean Basin Initiative to give countries of that area open access to the United States market is another example of bipartisan cooperation.

Thanks to the support of Congress, we are starting to achieve our goals in El Salvador, which has held four fair elections in three years. Under President Duarte, the army's performance is improving, human rights violations are down sharply, and the roots of democracy are growing. The guerrillas are weaker, and President Duarte is seeking a dialogue with them.

In all but one of the other countries in Central America, democracy is taking hold. Nicaragua is the one exception. Our policy toward that country has been hindered, to some extent, by misconceptions and confusion about our policies — not confused policies, but confusion about them. Political partisanship, I am compelled to say, also has burdened our task.

In truth, our policy today toward Nicaragua and the Central American region as a whole is grounded squarely in the ideals and interests that have guided postwar American policies. We seem to have general and growing agreement that the Nicaraguan communist régime poses a threat to the security of the region. We have general and growing agreement that, rather than fulfill the democratic promises of the 1979 revolution, the Nicaraguan leaders are increasing repression. We also seem to have general and growing acceptance that their huge military buildup and the large presence of foreign communist military advisors in the country are obstacles to a peaceful settlement. The dispute in this country is about some of the tactics for addressing the problem.

Addressing the Nicaraguan Problem

One criticism sometimes heard is that we should negotiate rather than resort to force in resolving our differences with the Nicaraguan communist régime. We have, in fact, given strong support to the Contadora nations that are attempting to negotiate a comprehensive solution to the crisis. Indeed, this country has made a major effort to cooperate with Nicaragua from the outset. When the Sandinistas took power in July 1979, until 1981, we gave Nicaragua $118 million in aid — more than they received from any other country. The Carter Administration initially halted our aid because of the Sandinistas' attempts to subvert El Salvador. Thereafter, we made major attempts to resolve our differences in August 1981 and April 1982, offering to restore aid if they would reverse their policies. The régime refused both times.

More recently, we held nine rounds of direct negotiations, conducted on our side by Ambassador Shlaudeman. Nicaragua's Roman Catholic bishops and its democratic resistance have called repeatedly for an internal dialogue and a cease-fire. President Reagan has supported this call; the Nicaraguan communists have refused.

A second argument occasionally heard is that we are driving the Nicaraguans into the arms of the Soviets. The fact that some were surprised by Daniel Ortega's journey to Moscow — his third in the past year — and to Eastern Europe the day after Congress voted against any kind of aid to the democratic resistance shows that we have a wide information gap, which needs to be closed. The record demonstrates that the Nicaraguan leaders are *already* dedicated communists aligned with the Soviet Union.

From the beginning, Nicaragua aligned itself with the Soviet Bloc in the United Nations. Only five months after taking power, when our aid was still flowing in, for example, the Nicaraguan government refused to condemn the Soviet invasion of Afghanistan. Nicaragua has voted against us and Israel on every issue.

In March 1980, when our aid was still flowing in, Mr. Ortega made his first visit to Moscow, where he signed a political cooperation agreement with the Soviet Communist Party. This was like the party-to-party agreements the Soviets sign with foreign communist parties.

The régime's internal policies of censorship, oppression of the Roman Catholic Church, hostility to the private sector, its massive military buildup, and widening control of the population add up to an effort to consolidate totalitarian control. The régime is also connected with drug trafficking and terrorism.

The large influx of communist military personnel began in January 1980, only months after the revolution. Today there are 50-75 Soviet military and 150 civilian advisers in the country. There are 2,500-3,500 Cuban military and security personnel and 3,500-4,000 civilian advisors, as well as personnel from other communist countries, Libya, and the PLO [Palestine Liberation Organization].

As documented in the House Intelligence Committee report of May 1983, the Salvadoran communist guerrillas have their command-and-control center outside Managua and receive vital logistics support from Nicaragua. Documents captured with a guerrilla leader in April provide extensive new evidence of Nicaraguan support for the Salvadoran communists.

Comandante Bayardo Arce, the régime's chief ideologist, in May 1984 gave a secret speech, revealed last July, in which he said, "[t]he Nicaraguan people are for Marxism-Leninism". Arce explained the Nicaraguan strategy of neutralizing American opinion by hiding behind a façade of progressive rhetoric. This is similar to the policy of the late Maurice Bishop's régime, as revealed in documents we captured in Grenada in 1983. These documents are highly illuminating in what they reveal of communist tactics to manipulate our media and our democratic ideals.

I understand the desire of our critics to find a peaceful accommodation. I share their desire. But the critics err in failing to see the Nicaraguan communists for what they are. Mr. Ortega is a man who, in Warsaw on May 9, described our policies as "fascist" and said he suspected that during World War II President Reagan "had Hitler's portrait hanging in his room". Even the Polish government felt it necessary to withhold such comments from general circulation. Two days later, at a press conference in Madrid, Mr. Ortega again compared our President to Hitler. [Spanish] Prime Minister Gonzalez had to remind his guest that the United States had liberated Europe from the Nazis.

Critics of United States military aid to the Nicaraguan freedom fighters would hold back the most effective lever we have on the communist régime. In fact, some oppose the use of economic sanctions or any other lever. They seem to think that aid to refugees, as the Barnes-Hamilton amendment in the House would have provided, is a bargaining lever. All this would do is turn the freedom fighters into refugees.

Some say they would favor the military option if all else fails and a real threat comes. But by refusing to help the freedom fighters, even with humanitarian aid, they are hastening the day when the threat will grow and when we will be faced with an agonizing choice about the use of American combat troops. That is not our policy, and I am sure it is not their intention. We want a negotiated settlement, but like all adherents of the postwar bipartisan consensus, we understand that negotiations, especially with communists, cannot succeed unless backed by strength.

Further, a failure to aid the freedom fighters endangers the progress that has been made in El Salvador. President Duarte said he is "very concerned" by Congress' action last month. How paradoxical that those who purport to back President Duarte are, at the same time, giving the Nicaraguan communists a free hand to undermine him.

A third argument is that in helping the freedom fighters we are supporting the *Somocistas*. In truth, the opposition is led by former opponents of Somoza, many of whom fought or worked with the Sandinistas to overthrow Somoza. Arturo Cruz, who served on the revolutionary Junta and in 1981 as Ambassador to the United States, was the presidential candidate of the unified opposition last November, although he was not permitted to run; Alfonso Robelo, head of the Democratic Revolutionary Alliance, was one of the original five members of the Junta in 1979; Adolfo Calero, commander in chief of the Nicaraguan Democratic Force (FDN), the largest resistance group, was once imprisoned by Somoza for directing a general strike. Five of the six leaders of the FDN were long-time civilian opponents of Somoza. I could go on.

The so-called *contras*, along with others, are, in fact, the democratic resistance of Nicaragua. They comprise about 15,000 men and women — many peasants — in a country of only 2.9 million. That would be equivalent to over 1 million Americans under arms; clearly, it is a popular revolt.

When communist countries back communist guerrillas against democratically elected governments, as in El Salvador, should not the United States back democratic forces fighting for their freedom against a communist régime? How is it that we can all agree on our obligation to aid the freedom fighters in Afghanistan or the anticommunist guerrillas in Cambodia, but are so divided over aiding freedom fighters near our very borders? There is no logical distinction.

Thus, we face a situation nearby where communists exploit poverty and oppression to try to impose a police state allied to Cuba and the Soviet Union. We at first extended the hand of friendship and have offered repeatedly to negotiate, but our offers have been spurned. The freedom fighters, of course, are not perfect — I can tell you from personal experience that no one in war is. But recent history — notably in Vietnam and Iran — has abundantly demonstrated that the side we back has been far, far preferable to the communist or other revolutionary alternative. Can anyone doubt what would be the response of President Truman, Senator Vandenberg, General Marshall, Secretary of State Acheson, Presidents Eisenhower and Kennedy, or Senator Henry Jackson — all champions of a bipartisan foreign policy?

Obstacles to a Bipartisan Foreign Policy

Our policy to foster peace, freedom, and economic and social justice in Central America, including Nicaragua, cannot succeed in a climate of bitter partisanship here at home. Members of Congress have every right to travel to Nicaragua to review the situation, but we cannot conduct a successful policy when they take trips or write "Dear Comandante" letters with the aim of negotiating as self-appointed emissaries to the communist régime.

Bipartisanship must include the recognition that we have only one President at a time. Under the Constitution, the President alone conducts foreign negotiations. In addition, at times he has to make critical decisions quickly and decisively. Bipartisanship should mean an acknowledgment of the burden that rests on the President's shoulders. In October 1983, after news of the Grenada rescue mission was announced, several Members of Congress took the floor to denounce our action even before I went up to Capitol Hill that day to brief them. A few even proposed impeaching the President for the mission. But when they learned the facts that the President had and saw the overwhelming support of the American — and Grenadian — people for the operation, many came to regret their criticism.

The cynical, obstructionist brand of party politics has no rightful place in national security policy. America would do better to recover the cooperative spirit of Senator Vandenberg and the other great Americans — of both parties — who built the security and prosperity of the postwar world.

Conclusion

These great Americans who forged our bipartisan foreign policy 40 years ago set an example of patriotism and devotion to the national interest that should inspire us today. The need for such a policy is as great today as it was then. Indeed, with the growth of Soviet power, it is even greater. We — and other peoples — have paid a heavy price for past divisions in this country.

The American people are in broad agreement on the ideas, ideals and interests that define America's role in the world. Naturally, there will be legitimate disagreements on specific issues. But we have made a good start on renewing a bipartisan consensus. We have more work ahead of us as we endeavor to restore fully, in principle and practice, the bipartisan conduct of foreign policy that so successfully safeguarded peace and freedom in the postwar era. The President and I are ready to play our part. We ask all Americans to join us.

Attachment 3

Interview of Director of Central Intelligence William J. Casey in *U.S. News and World Report*, June 17, 1985

. . . .

Question: In Nicaragua, do you think that the *contras* have a chance either to overthrow the Sandinista government or to force it to accommodate political opponents?

Answer: The rebels have kept the Sandinistas from consolidating a totalitarian regime and establishing a base from which their neighbors could be threatened militarily. Now, whether that's going to succeed, how long that's going to prevent consolidation or whether it will change the government, we don't know. We know that a comparable insurgency in Angola has been going for 10 years and is an important force.

Question: Isn't there a danger that the United States support for an enterprise like this can get out of control?

Answer: It doesn't have to. It can be turned off when circumstances require it. Nobody's plunking in their troops except the Soviets in Afghanistan and Vietnamese in Cambodia. That's quite different from providing supply, advice, that sort of thing.

Question: If doing something about the Sandinista government is in this country's interest, doesn't it follow logically that United States military intervention in some form becomes a clear possibility if the *contras* are unable to do the job themselves?

Answer: I would only refer you to what Secretary of State George Shultz said on that. He said that if we fail to induce the Sandinistas to reform by backing the rebels, we may face a question of whether we could have to do it militarily.

Look, if indeed what you have here is a second Cuba, this time on the American mainland, and we don't want to accept that permanent impairment of our security, the easiest way to do it is helping the people who want to resist it on the ground. If that fails and the Sandinistas consolidate, then it's a tough decision.

Question: In the absence of any more American aid, are the *contras* going to evaporate, or can they hang on?

Answer: It's amazing how people can continue to resist. They've held on very well. Congress terminated support effectively more than a year ago, and they're still there. They're as active as they've ever been. They've had problems — some things they had to learn to do for themselves, but they've learned it. So you can't discount what these people can do.

Question: When we go in with support for a group like the *contras*, don't we, in effect, assume a moral responsibility for their ultimate fate?

Answer: Well, I think you do assume some responsibility. But, you know, life isn't easy. If you want to do things, you've got to assume responsibility.

Question: What are the consequences of cutting them loose?

Answer: Very bad for our reputation, for the willingness of other countries who rely on our commitments. It's very bad in terms of our reliability.

Question: Does our action imply similar responsibility to Honduras, which provides an active base of support to the *contras*?

Answer: That's a matter of geography. The consequences of letting it go are the impairment of our security, probably a diversion of our attention. We have to worry about our immediate backyard.

Experience tells us that when the communists take over one of these countries, people leave the country by the millions. Large numbers of refugees will almost certainly come here if the perception is that communists are going to take over Central America.

. . . .

ADDITION TO SUPPLEMENTAL ANNEX B

Interview of President Ronald Reagan by Television Journalists, April 29, 1985
(Transcript, Office of the Press Secretary to the President)

. . . .

Question: Your aides say that you're very upbeat as you move towards this summit. Yet, it's not been a good week for the person we've come to know as the Great Communicator. Is there any sense, particularly thinking of the *contra* vote and the confusion about Bitburg, is there any sense in which you feel something's happened to the Great Communicator in the last 10 days or so?

The President: No. I've had four years of fighting with the recognition that one House of our legislature is of the opposing party — as a majority of the opposing party. And your parliamentary systems — you don't have such things. The party and the individual are the same. But, then, I had the experience of seven out of eight years as governor of California having a hostile legislature, and yet we managed to accomplish a great many things. I have not given up on the *contra*. The — our position, and the problem in Nicaragua, the vote up there and the debate, whether they admitted it or not, is simply, do they want another totalitarian Marxist-Leninist government, like Cuba's, now on the mainland of the Americas, or do they want the people of Nicaragua to have the democracy that they're willing to fight for, and that they did fight for in overthrowing the Somoza dictatorship?

And whatever way they may want to frame it, the opponents in the Congress of ours who have opposed our trying to continue helping those people, they really are voting to have a totalitarian Marxist-Leninist government here in the Americas, and there's no way for them to disguise it. So we're not going to give up.

As for the budget, we've just started that fight, and I'm determined that we're going to carry through with a plan that puts us back on a course that ends deficit spending.

But no, I don't feel I've been destroyed.

. . . .

Question: . . . What is the position of the United States vis-à-vis Nicaragua at the present? Do you rule out the use of force, the use of American troops?

The President: Yes.

Question: — in the area?

The President: I've never considered it. What we have in Nicaragua is a revolution that was fought and literally with our approval. The United States — I wasn't here then during the fighting of that revolution, but the United States stayed back. And anytime there's a revolution, there are various factions, all of whom were opposed to the government that they're rebelling against, and they joined together.

They promised all the other countries in the Americas — Canada, the United States, all the Latin American countries — they promised that their goal was a democratic government, with free elections, pluralism, free labor unions, human rights observed, freedom of speech and religion, and so forth.

When the revolution was over, this country, under the previous Administration, immediately went with aid, more financial aid to the new government of Nicaragua than had been given in 40 years to the previous government of Nicaragua; but then saw them do exactly what Castro did in Cuba after he won the revolution — his people won the revolution. The one faction, the Sandinistas — that faction eliminated all the other participants in the revolution.

Some were exiled. Some had to flee the country. Many were jailed. And they drove them out and then they made it plain, as Castro did in 1959, that they intended a Marxist-Leninist State. And they violated every promise they'd made to the Organization of American States.

Now, the people that are so-called *contras* that are fighting against this are veterans of the revolution. They are not remnants of the previous government trying to get a dictatorship back in power. These are the people — many of them were imprisoned themselves by the previous dictator. And they're demanding a restoration of the democratic goals of the revolution. And we feel obligated to give them support.

But the plan that we've asked the Congress to adopt is one in which those *contras*, themselves, have volunteered to lay down their weapons and ask them to be allowed to negotiate with their former companions in the revolution, the Sandinista government negotiate how to restore the democratic goals. And they've asked that it be mediated by the church.

Well, we have advanced that plan here and have said to the Congress, we will use whatever money is appropriated for food and medicines, and so forth; not for military weapons. And we have the support of their allies I mean, of their neighbors, Honduras and Costa Rica and Guatemala and El Salvador. The President of El Salvador has said that this is the right idea at the right time. And this is what we've asked of our own Congress and it's what we want.

We're not even seeking an overthrow of the present government. As a matter of fact, our plan says that while these negotiations go on, the present government stays in power. But it is simply for them to adopt the principles for which they said they were fighting in the first place.

. . . .

ADDITION TO SUPPLEMENTAL ANNEX B

Radio Address by President Ronald Reagan, June 8, 1985 (Transcript, Office of the Press Secretary to the President)

The President: My fellow Americans, today I want to give you some encouraging news about the opportunities for liberty, democracy and peace in Central America, particularly in Nicaragua. This hope is based on a renewed chance for the United States to provide support to those who struggle against totalitarian communism on the mainland of this hemisphere.

We're being given something very precious a second chance to do what is right. Recently on April 4th, I met here in Washington with Adolfo Calero, Arturo Cruz and Alfonso Robelo, the three principal leaders of the Nicaraguan democratic opposition. I asked these three brave men to extend their offer of a cease-fire and a church-mediated dialogue with the Sandinista régime in Managua.

Those exiled patriots and their followers made this proposal in San José, Costa Rica, on March 1 in a declaration of unity, common cause and democratic purpose. Unfortunately, their proposal was immediately rejected by the Sandinista communists who similarly rebuffed our April 4th endorsement of this realistic peace proposal.

Shortly thereafter, our House of Representatives voted not to provide assistance to the Nicaraguan freedom fighters. The Sandinistas and their cohorts believed the way was clear for the consolidation of their communist régime. Nicaragua's dictator raced to Moscow and the Bloc capitals of Eastern Europe to seal closer relations with these communist tyrannies.

And, now, the Nicaraguans are not only continuing to import offensive weapons, they have stepped up their attacks on neighboring Honduras and unarmed Costa Rica.

But, as I said, we have a second chance to do what is right. On Thursday, the United States Senate, in a show of bipartisan support, voted to aid the freedom fighters struggling for liberty and democracy, in Nicaragua. The Senate has seen that their struggle is ours, that they need and deserve our help.

In the House, some claim that the United States plans to become militarily involved in Central America. Well, no such plan exists. That charge is simply a distraction from the two paramount questions that must be faced by every member: Will you support those struggling for democracy? Will you resist the Soviets' brazen attempt to impose communism on our doorstep — or won't you?

There's a bipartisan proposal in the House to keep alive the dream of freedom and peace in Nicaragua. It will be put forward next Wednesday by Republicans Bob Michel of Illinois and Joe McDade of Pennsylvania, and Democrat Dave McCurdy of Oklahoma.

It is essential that this bipartisan amendment be passed without any weakening of its provisions in order for us to have a hope for peace, democracy and reconciliation in Nicaragua.

The legislation will provide $27 million worth of assistance to the freedom fighters, and that's not much compared to the hundreds of millions the communists are spending to prop up their Nicaraguan dictatorship.

The solution to the tragedy in Nicaragua is the very same the Congress has supported in El Salvador: liberty, democracy and reconciliation.

In El Salvador, we've worked with Congress and stood firmly behind President Duarte and the democratic forces. We seek the same goals in Nicaragua. As in El Salvador, the United States stands with the democratic senator — Senate, I should say — against the enemies of liberty on both left and right. And the freedom fighters share our goals for democracy.

One of their leaders, Adolfo Calero, said this week, "We of the Nicaraguan democratic resistance believe that true peace can only come with democracy, and that democracy is a precondition for peace — not the other way around".

To seize this opportunity before us, to seize this second chance now offered, the Congress and the Executive Branch must embark on a bipartisan course for a negotiated political settlement, national reconciliation, democracy and genuine self-determination for the people of Nicaragua.

Just six years ago, the people of Nicaragua — students, labor unions, businessmen and the church — fought for a democratic revolution, only to see it betrayed by a handful of Soviet-backed communists.

We must not sit by while the Nicaraguan people are saddled with a communist dictatorship that threatens this entire hemisphere. A House vote for humanitarian aid to the freedom fighters will send a strong bipartisan message that we will not tolerate the evolution of Nicaragua into another Cuba, nor will we remain with our heads in the sand while Nicaragua becomes a Soviet client State with military installations constructed for use by the Soviet Bloc.

A Soviet base in Nicaragua would give the Russians a foothold on the American mainland. America's proudest moments have come when Democrats and Republicans united for the cause of democracy. That is the path which is succeeding in El Salvador, and that is the path that will succeed in Nicaragua, too, if we support the bipartisan proposal to aid the freedom fighters.

Until next week, thanks for listening, and God bless you.

Supplemental Annex C

UNITED STATES CONGRESSIONAL DEBATES AND ENACTMENTS[1]

Attachment 1.	Debate in the United States Senate, 99th Congress, 1st Session, 23 April 1985. (131 *Congressional Record* S4527-4624.)
Attachment 2.	Debate in the United States House of Representatives, 99th Congress, 1st Session, 23 April 1985. (131 *Congressional Record* H2310-2428.)
Attachment 3.	Debate in the United States House of Representatives, 99th Congress, 1st Session, 24 April 1985. (131 *Congressional Record* H2442-2495 and H2518-2527.)
Attachment 4.	Debate in the United States Senate, 99th Congress, 1st Session, 6-7 June 1985. (131 *Congressional Record* S7587-7651 and S7726-7798.)
Attachment 5.	Debate in the United States House of Representatives, 99th Congress, 1st Session, 12 June 1985. (131 *Congressional Record* H4115-4201.)
Attachment 6.	Debate in the United States House of Representatives, 99th Congress, 1st Session, 18 July 1985. (131 *Congressional Record* H5900-5907.)
Attachment 7.	Conference Report on S. 960, amending the Foreign Assistance Act of 1961, published at 131 *Congressional Record* H6702-6748 (29 July 1985). (*See* Sec. 722 (*g*), at H6721.)

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[1] Not reproduced.

Supplemental Annex D

PRESS DISCLOSURES[1] RELATING TO UNITED STATES MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA

1. "Reagan, Declaring 'Threat', Forbids Nicaraguan Trade and Cuts Air and Sea Links", *New York Times*, 2 May 1985
2. "President Orders Halt to Trade with Nicaragua", *Washington Post*, 2 May 1985
3. "Leaders Say Nicaraguan Rebels Are Filtering Back to War Zone", *Washington Post*, 2 May 1985
4. "Private Groups Step Up Aid to 'Contras'", *Washington Post*, 3 May 1985
5. "Sar[illegible] a Policy by Default", *Washington Post*, 8 May 1985
6. "A Defecting Nicaraguan Contra's Tale", *Washington Post*, 8 May 1985
7. "U.S. Ex-Officials Lead 'Contra' Fund Drive", *Washington Post*, 9 May 1985
8. "Shultz in Warning on Combat Troops for Latin Region", *New York Times*, 24 May 1985
9. "President Shifts on Aid for Rebels", *New York Times*, 4 June 1985
10. "U.S. Military Is Termed Prepared for Any Move against Nicaragua", *New York Times*, 4 June 1985
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12. "President Pleads for Contra Aid", *Washington Post*, 5 June 1985
13. "Reagan Criticizes Nicaragua Anew", *New York Times*, 6 June 1985
14. "Senate Refuses to Add Strings to Contra Aid, Votes U.N. Fund Cut", *Washington Post*, 8 June 1985
15. "Senators Modify Bill on Rebel Aid", *New York Times*, 8 June 1985
16. "Reagan Pressures House on Contra Aid", *Washington Post*, 9 June 1985
17. "Nicaragua Rebels May Issue Charter", *New York Times*, 9 June 1985
18. "Sources: U.S. Close to Groups Aiding Contras", *Atlanta Constitution*, 10 June 1985
19. "Hill Tensions Rise on Nicaragua", *Washington Post*, 11 June 1985
20. "Contra Chieftain Seeking to Share in Any New U.S. Aid", *Washington Post*, 12 June 1985
21. "Reagan Letter Presses Latin Rebel Aid", *New York Times*, 12 June 1985
22. "House Reverses Earlier Ban on Aid to Nicaragua Rebels; Passes $27 Million Package", *New York Times*, 13 June 1985
23. "House Votes to Aid Contras", *Washington Post*, 13 June 1985
24. "Contra Aid Vote Presages Renewed U.S. Role", *Washington Post*, 14 June 1985
25. "Nicaraguan Rebels Relieved After House Votes Aid", *Washington Post*, 14 June 1985
26. "Hill, Administration Ponder How to Distribute Contra Aid", *Washington Post*, 19 June 1985
27. "U.S. Found to Skirt Ban on Aid to Contras", *Miami Herald*, 24 June 1985
28. "Latin Targets Studied for Retaliation", *Miami Herald*, 16 July 1985

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[1] Not reproduced.

29. "Lengthy U.S. Stay in Honduras Indicated", *Washington Post*, 17 July 1985
30. "House Votes to Ease Ban on CIA Links with Contras", *Washington Post*, 19 July 1985
31. "Nicaraguan Accuses U.S. of State Terrorism", *Washington Post*, 20 July 1985
32. "No 'Smoking Gun' on Nicaragua", *Washington Post*, 23 July 1985
33. "U.S. Said to Have Weighed Raid on Training Camp in Nicaragua", *New York Times*, 24 July 1985
34. "Hill Conferees Agree on Aid to Contras", *Washington Post*, 27 July 1985
35. "Nicaraguan Rebels Blow Up Bridge", *Washington Post*, 1 August 1985
36. "Rebels Briefly Hold Town in Northern Nicaragua", *Washington Post*, 2 August 1985
37. "Reagan to Seek Funds to Double Contra Force", *Los Angeles Times*, 3 August 1985
38. "Contra Compromise Sends Signal", *Washington Post*, 4 August 1985
39. "Local Officials Describe Assault, Ambush", *Washington Post*, 8 August 1985
40. "Nicaragua Rebels Said to Abduct 29 U.S. Activists and 18 Others", *New York Times*, 8 August 1985
41. "Reagan Signs Foreign Aid Legislation", *Washington Post*, 9 August 1985
42. "Nicaragua Rebels Getting Advice from White House on Operations", *New York Times*, 8 August 1985
43. "Rebels Move Back Into Nicaragua", *Washington Post*, 9 August 1985
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45. "U.S. Admits Contacts with Nicaraguan Rebels", *Baltimore Sun*, 9 August 1985
46. "Role in Nicaragua Described by U.S.", *New York Times*, 9 August 1985
47. "White House Defends Legality of NSC Contact with Contras", *Washington Post*, 9 August 1985
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53. "Leader of Contras Describes Contacts with White House", *Washington Post*, 15 August 1985
54. "Nicaragua Rebels Reported to Raise Up to $25 Million", *New York Times*, 13 August 1985
55. "House Looks Into U.S. Aide and Anti-Sandinistas", *New York Times*, 17 August 1985
56. "President Signs Legislation for Aid to Anti-Sandinistas", *Washington Post*, 17 August 1985
57. "Data Sought on NSC-Rebel Contacts", *Washington Post*, 17 August 1985
58. "Reagan Aides See No Possibility of U.S. Accord With Sandinistas", *New York Times*, 18 August 1985
59. "Contra Wants 'Nonlethal Aid' to Include Planes, Trucks, Boats", *Washington Post*, 18 August 1985
60. "U.S. Creates an Office for Anti-Sandinista Aid", *New York Times*, 31 August 1985
61. "Pastora Beleaguered As Aid Dries Up", *New York Times*, 1 September 1985
62. "Nicaraguan Guerrillas Claim Greater Strength", *Washington Post*, 3 September 1985
63. "Nicaragua Rebels Open a New Front", *New York Times*, 3 September 1985

64. "U.S. Aide's Ties to Contras Challenged", *New York Times*, 5 September 1985
65. "The Contras' Comeback", *Newsweek*, 9 September 1985
66. "Sanchez Forecasts Success in Central American Policy", *Washington Times*, 27 August 1985

Supplemental Annex E

AN AMERICAS WATCH REPORT, HUMAN RIGHTS IN NICARAGUA: REAGAN, RHETORIC AND REALITY, JULY 1985

PREFACE

This is the eighth Americas Watch report on Nicaragua. It draws on our findings from numerous missions to that country since 1982, including two 1985 reports that deal with abuses by both sides in the armed conflict. It also draws on our previous research into State Department methodology of human rights reporting, which has been published in our annual *Critiques* of the Department's Country Reports on Nicaragua, and in our individual Nicaragua reports.

INTRODUCTION

> "The Nicaraguan people are trapped in a totalitarian dungeon." (President Reagan, July 18, 1984[1].)
>
> "Some would like to ignore the incontrovertible evidence of the communist religious persecution — of Catholics, Jews and Fundamentalists; of their campaign of virtual genocide against the Miskito Indians." (President Reagan, June 6, 1985[2].)
>
> "The United States will continue to view human rights as the moral center of our foreign policy." (President Reagan to UN General Assembly, September 24, 1984[3].)

The Reagan Administration, since its inception, has characterized Nicaragua's revolutionary government as a menace to the Americas and to the Nicaraguan people. Many of its arguments to this effect are derived from human rights "data", which the Administration has used in turn to justify its support for the *contra* rebels. The Americas Watch does not take a position on the United States geopolitical strategy in Central America. But where human rights are concerned we find the Administration's approach to Nicaragua deceptive and harmful.

This report is addressed to the deception and harm done when human rights are manipulated. Allegations of human rights abuse have become a major focus of the Administration's campaign to overthrow the Nicaraguan government. Such a concerted campaign to use human rights in justifying military action is without precedent in United States-Latin American relations, and its effect is an unprecedented debasement of the human rights cause.

This debasement of human rights contradicts President Reagan's professed commitment to such rights. Far from being the "moral center" of United States foreign policy toward Nicaragua, the human rights issue has been utilized in the service of a foreign policy that seeks to advance other interests. Whether or not those interests are legitimate is not the province of the Americas Watch; what is of concern to us is an attempt to proclaim a false symmetry between promoting those interests and promoting human rights.

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[1] Quoted in "New Effort to Aid Nicaraguan Rebels", *New York Times*, July 19, 1984.

[2] "Remarks of the President to Fundraising Luncheon for Senator Jeremiah Denton", Birmingham, Alabama, June 6, 1985.

[3] "Most at U.N. Commend Talk", *Washington Post*, September 25, 1984.

The Administration has disregarded the norms of impartial human rights reporting when it deals with Nicaragua. The Administration's accusations against Nicaragua rest upon a core of fact: the Sandinistas have committed serious abuses, especially in 1981 and 1982, including arbitrary arrests and the summary relocation of thousands of Miskito Indians. Around the core of fact, however, United States officials have built an edifice of innuendo and exaggeration. The misuse of human rights data has become pervasive in officials' statements to the press, in White House handouts on Nicaragua, in the annual *Country Report* on Nicaraguan human rights prepared by the State Department, and most notably, in the President's own remarks. When inconvenient, findings of the United States Embassy in Managua have been ignored; the same is true of data gathered by independent sources.

In Nicaragua there is no systematic practice of forced disappearances, extra-judicial killings or torture — as has been the case with the "friendly" armed forces of El Salvador. While prior censorship has been imposed by emergency legislation, debate on major social and political questions is robust, outspoken, even often strident. The November 1984 elections, though deficient, were a democratic advance over the past five decades of Nicaraguan history and compare favorably with those of El Salvador and Guatemala and do not suffer significantly by comparison with those of Honduras, Mexico or Panama. The Sandinista Party obtained a popular mandate, while the opposition parties that chose to participate secured some 30 per cent of the seats in the Constituent Assembly. Nor has the government practiced elimination of cultural or ethnic groups, as the Administration frequently claims; indeed in this respect, as in most others, Nicaragua's record is by no means so bad as that of Guatemala, whose government the Administration consistently defends. Moreover, some notable reductions in abuses have occurred in Nicaragua since 1982, despite the pressure caused by escalating external attacks.

The Nicaraguan government must be held to account for the abuses which continue to take place, like restrictions on press freedom and due process. But unless those abuses are fairly described, the debate on Nicaragua ceases to have meaning.

Inflammatory terms, loosely used, are of particular concern. President Reagan has described Nicaragua's elected President, Daniel Ortega, as "a little dictator" and has termed the Nicaraguan government's recent relocations of civilians a "Stalinist" tactic[1]. Such epithets seek to prejudice public debate through distortion. Perhaps most harmful in this respect is the term most frequently used by President Reagan and Administration officials to denounce the Nicaraguan government — that is, "totalitarian". This is a misuse of the term and it misrepresents the situation in Nicaragua.

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[1] With regard to the latter epithet, it is worth noting that Stalin's forcible relocation of the Crimean Tatars was so inhumane that half of them died in the process. Any comparison with Nicaraguan relocation practices is entirely specious. The Nicaraguan government has been criticized by Americas Watch for providing inadequate notice in many cases, and the process of relocation has been physically and emotionally difficult for the persons affected; there is no evidence, however, that the government has used relocation as a punishment of any social or ethnic group, nor that evacuees from war zones have been treated inhumanely. We also note that President Reagan has opposed economic sanctions against South Africa where 3.5 million have been relocated in the past 20 years for reasons having nothing to do with military necessity, and 2 million more are scheduled for forced relocation — but he has applied economic sanctions against Nicaragua citing the relocations as one reason.

In a totalitarian State, the State — or an institution such as the party or the military that effectively exercises the power of the State — destroys all independent associations and silences all independent voices. Churches, labor unions, newspapers, academic institutions, political parties, business organizations and professional associations are forced to become organs of the State, or subservient to the State, or they cease to exist. A certain amount of criticism may be tolerated in a totalitarian State, but certainly not criticism that challenges the legitimacy of the State, or its governing bodies, or its leadership. Moreover, such limited scope for dissent as may be tolerated in a totalitarian State tends to disappear entirely when the State considers itself to be threatened.

This description of a totalitarian State bears no resemblance to Nicaragua in 1985. The Catholic Church and several Protestant denominations not only operate independently in Nicaragua but they are outspoken in expressing their views on religious matters and also on every conceivable secular issue; similarly, business and professional associations and labor unions are not only independent but are unhesitatingly critical of the government and its leaders. Political parties representing a wide spectrum of views not only operate, but have elected representatives who debate issues in the Constituent Assembly. The parties that chose to participate in the 1984 national elections — from which no party was banned — were free to be as strident as they chose in attacking the Sandinista Party and its leaders, and frequently exercised this right on television and radio time provided to them without cost to conduct this campaign. An independent human rights commission maintains professionally staffed offices in Managua, prints and distributes — both nationally and internationally — detailed monthly reports on human rights abuses by the government, and does not seem to circumscribe itself in denouncing those abuses. A newer human rights group operates without restraint in seeking redress for Miskito Indians who have been victims of human rights abuses.

Any Nicaraguan and any visitor to Nicaragua can walk into a score or more of offices in the country's capital and encounter the officers and employees of various independent institutions who will not only voice their opinions freely in criticism of the government and its leaders, and even challenge the legitimacy of the State, but will also do so for attribution. Some will hand out literature expressing those opinions. This is inconceivable in any State appropriately described as totalitarian. Moreover, it is inconceivable in many of the countries vigorously supported by the United States. While a visitor to nearby El Salvador, Guatemala, or Haiti for example, may encounter criticism of the government, if it is criticism that is as strong as one regularly encounters in Nicaragua, the speaker will ordinarily request anonymity. Similarly, it is impossible to find independent institutions speaking so freely in more distant allies of the United States such as Turkey, Saudi Arabia, Indonesia, Zaire, Morocco — to name just a few.

To point out that dissent is expressed openly and robustly in Nicaragua, is not to deny that many of those expressing dissent have legitimate grievances. We believe that the abuses that led to those grievances should be carefully documented and condemned vigorously. In our previous reports on Nicaragua, and in the body of this report, we discuss such abuses as restrictions on expression and association; denials of due process of law in many cases in which defendants have been accused of security-related crimes; the government's failure to acknowledge detentions promptly and the relationship of that failure to other abuses against detainees; the mistreatment of prisoners; the violent abuses against the

Miskito Indian minority that took place in late 1981 and 1982; and the abuses that have accompanied forcible relocation of thousands of Nicaraguans from war zones.

It is, of course, extremely difficult to assess to what degree liberties have been restricted in Nicaragua because of the United States-sponsored effort to overthrow its government. The difficulty in assessing what might have been is all the greater because the Reagan Administration has argued, at least implicitly, that such openness as prevails in Nicaragua today reflects the effort of the Sandinistas to win international support for their effort to resist the *contras*.

According to this logic, it is because of the *contra* war, rather than in spite of the *contra* war, that Nicaragua maintains some of the characteristics of an open society. (There is, of course, a contradiction between acknowledgment that there is some openness in Nicaragua and the allegation that it is a totalitarian State; this contradiction is occasionally resolved by the suggestion that it is the totalitarian *tendency* of the Sandinistas that is objectionable.)

If it were true that the openness in Nicaragua is a consequence of the *contra* war, this would, of course, contradict everything that is known about the way that nations behave when they are at war. Even the freest nations radically circumscribe liberties under such circumstances[1]. At the very least, such use of human rights arguments to justify military interference should be regarded with skepticism. Given the consequences of the United States policy to Nicaraguan civilians, that skepticism may justifiably become concern.

For the past two years the most violent abuses of human rights in Nicaragua have been committed by the *contras*. Here too the Administration has substituted rhetoric for a clear look at the facts. After several on-site investigations into *contra* practices, we find that *contra* combatants systematically murder the unarmed, including medical personnel; rarely take prisoners; and force civilians into collaboration. These abuses have become a rallying point inside Nicaragua. Indeed, Sandinista rhetoric on these questions is often almost as heated as the Administration's, such that the *contras* are officially referred to as "beasts",

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[1] Consider, for example, the experience of the United States which fought four major wars during the twentieth century — the First World War, the Second World War, the Korean War and the Vietnam War — but which did not endure invasion or serious threat of being overthrown during any of those wars. The restrictions on liberty during the First World War were the most severe in our history and included some 1,900 federal prosecutions for the peaceful expression of opinion; an untold number of state prosecutions; the closing and banning from the mails of various periodicals; and a war-time hysteria that persisted following the war and that included the summary detention of thousands and summary exile of hundreds in the raids on aliens and suspected leftists led by Attorney General A. Mitchell Palmer and his aide, J. Edgar Hoover. During the Second World War, Americans were almost entirely united in support of the war effort, but the war was nevertheless marked by the forcible evacuation and internment in detention camps of some 112,000 Japanese Americans; and by the enactment of the Smith Act and by the prosecution of 29 members of the Socialist Workers Party and the imprisonment of 18 of them for violating its prohibitions against advocacy and conspiracy. The Korean War was marked by the rise of Senator Joseph McCarthy and of the Congressional investigations of associations and beliefs conducted by McCarthy and several others; by the imprisonment of scores who declined to name names; and by loyalty oaths and loyalty-security tests for employment that cost thousands their jobs. The Vietnam War was marked by the imprisonment of thousands for resisting the draft; the jailing of tens of thousands for demonstrating against the draft and the war; and by an enormous escalation in spying on peaceful political activities of Americans by the CIA, the FBI, the Army, several other federal agencies, and state and local police departments all over the country; and by such programs as COINTELPRO which were used by Government agencies (in this case the FBI) to destroy organizations engaged in peaceful dissent.

"mercenaries", and, even though a number are disillusioned supporters of the revolution, they are invariably labelled as "Somocistas"; all civilians who leave Nicaragua with the *contras* are considered "kidnapped", although there is evidence that many go voluntarily.

This report attempts to put the rhetoric into perspective. We have selected representative United States allegations — and, where we have found them, Nicaraguan official statements on the same subjects — and compared them with the facts we have gathered in four years of monitoring Nicaraguan conditions. We have not attempted to cover every facet of Nicaraguan life in detail, but have taken our guidance from the Administration's own chosen themes. These are: the issue of respect for life and personal integrity; Nicaraguan government relations with the opposition press, religious constituencies, and human rights monitors; the Miskito Indians; the November 1984 national elections; number of refugees as an index of repression; and the character and practices of the *contras*.

The Americas Watch has published seven previous reports on Nicaragua[1]. We have evaluated Administration evidence in each of those reports, but our focus has been on investigating at first hand and on working closely with Nicaraguan human rights investigators. Our purpose here is to offer a guide to the Nicaraguan case, supplemental to our more detailed reports, and to present that case in a manner free of rhetoric. We are convinced that only neutral reporting can encourage improvements by either side in Nicaragua. The Reagan Administration, by forsaking neutrality on human rights, has done damage both to the cause of human rights generally and to Nicaraguans in particular.

SUMMARY

A. In examining the Reagan Administration's treatment of human rights in Nicaragua, we find that:

1. Far from being "the moral center" of policy toward Nicaragua, human rights has been used to justify a policy of confrontation;
2. to that end, human rights data have been distorted in the annual State Department *Country Reports* on Nicaragua, in White House informational handouts on Nicaragua, in speeches and public statements by senior officials and most notably, in the President's own remarks on Nicaragua;
3. such misuse of human rights to justify military interference is in United States-Latin American relations, an unprecedented debasement of the human rights cause;
4. of particular concern is the Administration's constant — and inaccurate — use of the term "totalitarian" to characterize Nicaragua.

B. With respect to actual human rights conditions in Nicaragua, we have examined the Administration's claims in the areas where United States accusations are most forceful (and have also compared the facts to Nicaraguan government claims, where we have found them), and find that:

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[1] Our previous reports are:

1. Violations of the Laws of War by Both Sides in Nicaragua — 1981-1985 — First Supplement (June 1985); 2. Violations of the Laws of War by Both Sides in Nicaragua — 1981-1985 (March 1985); 3. Freedom of Expression and Assembly in Nicaragua during the Election Period (December 1984); 4. The Miskitos in Nicaragua 1981-1984 — (November 1984); 5. Human Rights in Nicaragua — April 1984; 6. Human Rights in Nicaragua: November 1982 Update; 7. On Human Rights in Nicaragua — May 1982.

1. There is not a policy of torture, political murder, or disappearances in Nicaragua. While such abuses have occurred, principally in 1981 and 1982, the government has acted in some cases to investigate and punish those responsible, although we continue to urge a full accounting of 70 Miskito disappearances from 1982 and 1983 and of the deaths (totally 21 to 24) in the Leimus and Walpa Siksa incidents of 1981 and 1982.
2. The Administration has misrepresented the denial of press freedom in Nicaragua, attempting to convey the impression that former freedoms were eliminated by the Sandinistas. On the other hand, serious problems of censorship persist and censorship should be ended except to the extent strictly necessary to deal with the national emergency.
3. The issue of religious persecution in Nicaragua is without substance, although it is evident that the political conflict between the Catholic Church and the government has included cases of clear abuses, such as the expulsion of ten foreign priests. There is not a policy of anti-Semitism, nor are Christians — Catholic or Protestant — persecuted for their faith.
4. The Miskitos, who have become this Administration's favored symbol of alleged Sandinista cruelty, suffered serious abuses in 1981 and 1982. Since then, the government's record of relations with the Miskitos has improved dramatically, including an amnesty, efforts at negotiations and the beginnings of repatriation, while the *contras'* treatment of Miskitos and other Indians has become increasingly more violent.
5. The November 1984 Nicaraguan national elections, though deficient, represented an advance over past Nicaraguan experience and a positive step toward pluralism, resulting in significant representation of opposition parties in the Constituent Assembly. Nicaragua should be prodded to take additional steps to advance a democratic process.
6. There is no evidence to support Administration claims that a United States failure to interfere in Nicaragua would generate waves of "feet-people".
7. To state the above is not to disregard or in any way to diminish the importance of abuses that have taken place in Nicaragua. A newspaper, such as *La Prensa*, openly proclaims its opposition character, but it suffers heavy-handed prior censorship; some leaders of business associations and of labor unions have endured jailings for their peaceful activities; ten foreign priests were expelled from Nicaragua for taking part in a peaceful demonstration that the government considered illegal; except during the 1984 elections, the political parties have not been permitted to conduct outdoor rallies; and there have been a number of occasions when *turbas* (mobs) presumably controlled by the government or by the Sandinista Party have been used to intimidate those expressing opposition views. Perhaps most disturbing of all, since the revolution succeeded in 1979, there has been an interlocking relationship between the Sandinista Party and the State so that, for example, it is the Popular Sandinista Army that defends the State and it is Sandinista-sponsored organizations that choose two of three members of the tribunals that try those accused of a variety of security-related offenses.

C. With respect to the human rights practices of the *contras*, we have examined the Administration's claims for the moral character of these insurgents and find, to the contrary, that the *contras* have systematically engaged in the killing of prisoners and the unarmed, including medical and relief personnel; selective attacks on civilians and indiscriminate attacks; torture and other outrages against personal dignity; and the kidnappings and harassment of refugees. We find that the most violent abuses of human rights in Nicaragua today are being committed by the *contras*, and that the Reagan Administration's policy of support for the *contras* is, therefore, a policy clearly inimical to human rights.

I. THE NICARAGUAN GOVERNMENT'S RECORD

> "As you know, the Sandinista dictatorship has taken absolute control of the government and the armed forces. It is a communist dictatorship, it has done what communist dictatorships do: created a repressive State security and secret police organization assisted by Soviet, East German and Cuban advisers — harassed and in many cases expunged the political opposition and rendered the democratic freedoms of speech, press and assembly, punishable by officially sanctioned harassment, and imprisonment or death." (President Reagan, April 15, 1985 [1].)

> "It is against a background of numerous acts of aggression of all kinds, including military aggression, that the government Junta for National Reconstruction has made consistent efforts peacefully to achieve the reconstruction, development and political economic, social, moral and cultural transformation of Nicaragua and to set up a democratic system, based on justice and social progress, in a pluralist society which guarantees, to all inhabitants, full employment and exercise of human rights in the broad sense, without discrimination of any kind." (Report of the Nicaraguan government to the United Nations Human Rights Committee, March 1982 [2].)

A. Individual rights: life and personal security

Torture

> "There were credible reports of physical abuses of prisoners during interrogation and assertions that torture is practiced in the El Chipote state security detention center. There were also credible reports of secret prisons throughout Nicaragua, where prisoners are tortured."

This accusation, in the 1981 *Country Report* on Nicaragua [3], was the State Department's opening salvo in a continuing effort to prove that the Nicaraguan government condones and directs a policy of torture. The claim has been reiterated in *Country Reports* for 1983 and 1984. It has not been proven at any point, however. The government of Nicaragua in fact has prosecuted security agents and soldiers for human rights abuses in a number of cases — something which has not occurred in El Salvador (except when the victims have been Americans), Guatemala or in any other military-run country in Latin America [4].

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[1] White House Press release, "Text of Remarks by the President at the Nicaraguan Refugee Fund Dinner".

[2] CCPR/C/14/Add.2; 10 August 1982, p. 1.

[3] P. 485. The discerning reader will note that no specific cases are offered, nor a specific (or generic) source for the "credible reports".

[4] In February 1984, the government of Nicaragua appointed a special prosecutor to file charges related to a number of episodes of murder, rape, theft, mistreatment of prisoners and other abuses by government agents in the area of Pantasma, Jinotega. In late March, these actions resulted in the conviction of 13 military and civilian officials to prison terms ranging from 4 to 19 years, and in charges instituted against 31 others; some of them were acquitted, others have not been arrested yet. In May 1984, two Army sublieutenants and one private were sentenced to long prison terms for running a truck into an Easter Catholic procession and killing 12 persons. In the same month, an Army sublieutenant was sentenced to 19 years in prison for raping a Miskito woman in the town of Lapan, Zelaya, in the course of an Army sweep in pursuit of insurgents.

Moreover, the Administration's charges do not square with the findings of either Americas Watch or Amnesty International. The Permanent Commission on Human Rights (CPDH), a private Nicaraguan group that monitors human rights violations, initially stated firmly that torture was not practiced by the Sandinista government. In late 1982, CPDH began accusing the Nicaraguan government of engaging in such a practice; the cases that CPDH has documented reflect the application of psychological pressure during interrogation and some instances of physical mistreatment. Americas Watch has published several reports in which we have described cases in which prisoners have been mistreated and in which we condemn the abuses that they have suffered. The cases we know of and that have been documented, however, do not constitute evidence of a pattern of deliberate infliction of extreme physical suffering that is generally associated with the word torture.

In March 1982, Americas Watch sent its first delegation to investigate the status of human rights in Nicaragua. The team was particularly interested in the accusation included in the 1981 *Country Report* which had been published only a few weeks earlier. They asked the State Department for the source of the allegation and its evidence, and were referred to an official at the United States Embassy in Managua and to the Executive Coordinator of CPDH. Neither of those sources supported the claim; both told us that there was no evidence for it and that in their view, the Sandinista government did not engage in torture. Americas Watch then tried unsuccessfully to obtain the initial report by the embassy in Managua which had been the basis for the section on Nicaragua in the 1981 *Country Reports*, in an effort to establish where and how the misrepresentation had taken place. The State Department blocked our Freedom of Information Act requests, both administratively and in federal court, on grounds that disclosure of this document could jeopardize United States foreign policy pursuits.

Americas Watch and other human rights organizations have reported on the use of harsh interrogation tactics in the course of pre-trial investigations, such as deprivation of light for several days, interrogation for long and irregular hours, depriving prisoners of sleep, and even threats against prisoners and their families. In some cases, most notably with Miskitos arrested in 1982, prisoners have been beaten during interrogation. International human rights organizations such as Americas Watch have called on the Nicaraguan government to eliminate incommunicado detention or to regulate it so that it will not constitute a propitious condition for abuse of prisoners. The Nicaraguan government should also allow visits by international monitors to the pre-trial detention facilities, particularly regular visits by the International Committee of the Red Cross, in the same manner in which the facilities of the Nicaraguan penitentiary system are open to those visits.

The Administration, however, goes beyond these facts. Failing to present credible findings by human rights organizations with regard to torture, the Administration has resorted to misrepresentation. The 1984 *Country Report* contains the statement that "On May 30, 1984, Amnesty International reported in a press release that it had 'confirmed that some prisoners have been tortured or ill-treated in Nicaragua'."[1] The quotation is taken entirely out of context. The AI press release opens with the sentence:

> "Amnesty International has received few concrete allegations of torture

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[1] P. 611.

> or ill-treatment in Nicaragua, although prisoners' detailed descriptions of detention and interrogation procedures have been regularly received and assessed."

In addition, the sentence quoted in the *Country Report* is immediately clarified in the AI press release:

> "Protests of ill-treatment by individual prisoners or by domestic and international organizations have been followed by internal military and police disciplinary hearings, as well as public hearings by criminal courts and military court martials against police. Amnesty International has confirmed cases from different areas of the country in which police and military personnel have been detained and put on trial after allegations of torture or ill-treatment were made."

The Amnesty International press release is, indeed, further evidence that Nicaragua's government does not direct or condone torture of prisoners.

Political murder

Misrepresentation has also served the Administration with respect to alleged political murder by the Nicaraguan government. Speaking to a meeting of Central American conservatives in March 1985, President Reagan made the claim that the Sandinistas "summarily execute suspected dissidents"[1].

With somewhat more restraint, the *Country Report* for 1984 cited six political murders. But CPDH, the State Department's supposed source for that information, included not six, but two cases of detainees dying in custody in its monthly reports for 1984.

International human rights investigators have learned of two instances of group political killings in Nicaragua, both more than three years ago. The OAS Inter-American Commission on Human Rights (IACHR), in its May 16, 1984, report, cited the 1981 Leimus incident, in which Miskitos were killed by Sandinista soldiers in a remote village, as the sole case that the Commission had documented. (This case was first reported by Americas Watch in May 1982, and according to our information, between 14 and 17 persons were killed.) The Americas Watch has learned of one other incident, during 1982 in Walpa Siksa, involving the deaths of seven Miskito youths. (This case was also first reported by the Americas Watch.) The government has investigated the Leimus case but has not published its findings; it is therefore not possible to know for certain how thorough an investigation took place, or whether appropriate punishments were imposed, and this remains a matter of concern. As to the Walpa Siksa case, we understand that the officer responsible for the action was executed by orders of his superiors in the field. Both incidents occurred in remote, conflicted areas, and there is no evidence that what took place was directed or condoned by the central government.

This conclusion applies also with regard to the isolated deaths in years previous to 1984: CPDH has gathered evidence on killings in real or supposed confrontations or following arrests by security forces; these deaths have often occurred under circumstances in which political motivation could not be clearly established.

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[1] "Remarks of the President to Central American Leaders", March 25, 1985, transcript by White House Press Office.

or in remote areas of active conflict[1]. In some cases the government has moved to investigate and to punish those responsible. Again, the evidence does not demonstrate a deliberate, centrally sanctioned pattern to these deaths.

With respect to captured *contra* combatants, the treatment by and large is as described above. Although *contra* spokesmen have frequently alleged that the government kills fighters placed *hors de combat*, neither CPDH nor Americas Watch has found evidence in any specific case. Conditions of confinement of these prisoners are the same as those for non-combatants accused of security-related offenses. Those *contras* who have chosen to accept the government's offer of immunity for those who surrender[2], have not been confined or mistreated afterward, according to all available evidence.

Disappearances

The CPDH has recorded "disappearances" through 1984, using the term in a looser fashion than it is applied elsewhere in Latin America. What CPDH has called disappearances have occurred, for the most part, in remote rural areas and consist of detentions carried out without informing family members, or transfers of detainees to new places of detention without informing family members; most of these detainees have been located in custody at a later date, and therefore are said to have "reappeared". Elsewhere in Latin America the majority of those who disappear are not heard from again. CPDH publishes a year-end listing of disappearances, which updates monthly reports by noting only those cases that remain unresolved. CPDH has also informed the Americas Watch of cases that were resolved by the location of the disappeared after they were listed in a year-end report.

Such background is necessary to understand how the Administration has portrayed disappearances in Nicaragua. Both the 1983 and 1984 *Country Reports* vastly overstate the incidence of this abuse. In 1983 it is possible that the State Department's published figure (167) was arrived at by totaling CPDH monthly figures and that, in error, the State Department overlooked CPDH's year-end report (showing a total of 31, later reduced to 28). This error was pointed out in reports published by Americas Watch. In 1984 a repetition of the same mistake is difficult to imagine; yet, again, the *Country Report* misrepresents the CPDH findings, through a manipulation of methodology. The *Report* states:

> "In 1984 the CPDH documented 60 cases of disappearances in which security forces were implicated. In some of those cases, though reported in 1984, the individuals had actually disappeared in earlier years[3]."

The number 60 is offered as the sole referrent on disappearances for 1984, although "some" among that number were missing some "years" earlier. Why the circumlocution? Because CPDH in fact reported *eight* unresolved cases of missing persons for 1984; in *two* of those cases CPDH "documented", i.e., had some evidence of, an arrest by security forces. Accordingly, those two cases are properly referred to as disappearances; no other cases warrant this label. Temporary cases of missing persons reported by CPDH during 1984, but which were eventually resolved by the location of the person reported missing, amounted to 35 cases.

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[1] The best-known case of a political death is the November 1980 killing of a well-known and popular business leader, Jorge Salazar. According to a book (soon to be published) on Nicaragua by reporter Shirley Christian, Salazar was organizing a military effort against the Sandanista government. He was killed by State security agents. The exact circumstances are not clear. The government claimed that Salazar was killed in crossfire when a companion opened fire while resisting arrest. Salazar's family says that he was executed by the agents. Complete verification of the facts has not been possible. The government did not investigate the killing and no one was punished for it.

[2] First offered in February 1984, but excluding leaders and those who took money from foreign sources. Expanded in January 1985 by the newly installed Constituent Assembly, eliminating those exclusions and with no time-limitation.

[3] P. 611.

The State Department may have picked up the figure of 60 from a report by the United Nations Working Group on Disappearances, a body of the United Nations Commission on Human Rights, and erroneously attributed it to CPDH. The Working Group report, issued in January 1985, stated that during 1984 the Group had received 60 complaints of disappearances, but pointed out that in 59 (not "some") of those cases, the presumed arrest had taken place in earlier years, and one in 1984. Whatever the sources used, the references to disappearances in the State Department *Country Report* on Nicaragua for 1984 amount to outright deception.

Equally deceptive are pronouncements made by Administration officials in debates and public meetings. At a New York University Law School symposium in March 1985, a deputy coordinator in Secretary Shultz's office, John Blacken, told the audience that the Sandinistas were responsible for more than 1,000 disappearances. (Americas Watch vice-chairman Aryeh Neier, on the symposium's panel with Blacken, challenged and refuted the 1,000 figure, but Blacken did not withdraw it. Neither did he cite evidence for it.) Constantine Menges of the National Security Council told a group of New York lawyers at about the same time that the figure was 2,000. The irresponsibility of such charges is typical of the Administration's entire approach to human rights in Nicaragua.

Disappearance cases are never closed, on the other hand. There remain, for example, 69 cases of Miskitos who disappeared in 1982 and one in 1983 for which the government must account. The authorities also should do more toward devising a system for communicating prisoners' whereabouts to relatives in the provincial areas, as the failure to do so causes enormous anxiety and complicates the work of local human-rights investigators. The government did institute such a system in Managua in 1982, which has had a positive effect.

The three categories of abuse examined above provide a sample of the Administration's tendency to exaggerate abuses of individual rights in Nicaragua. A more complete discussion, beyond the scope of this report but available in other Americas Watch reports, would take account of mixed performance in other areas of individual rights.

Amnesty International, Americas Watch, and other human rights groups, relying in part on CPDH and in part on their own independent investigations, have expressed concern about conditions in Nicaragua's overcrowded prisons, about trial delays, about cases of incommunicado detention which in some instances has lasted for several weeks after arrest, and about the procedures used by the "special tribunals" set up in May 1983 to try security-related cases[1]. The state of emergency declared in March 1982 limits the rights of defendants and detainees, including, in practice, the effectiveness of *habeas corpus*. At the same time the ordinary courts operate with a measure of independence, and harsh or unwarranted sentences have frequently been overturned on appeal. The death penalty does not exist in Nicaraguan law. In addition, as noted above, the government has prosecuted security officials who have committed abuses.

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[1] With respect to this last, see for example "Nicaragua: Revolutionary Justice", an April 1985 report by the Lawyers Committee for International Human Rights. Americas Watch had previously expressed its concerns with the use of courts of special jurisdiction to try security-related offenses, because the decisions issued by those courts are not reviewable by Nicaragua's independent judiciary, and because the non-lawyer members of these courts are chosen by the Sandinista-oriented popular organizations. In our April 1984 report, we called for the abolition of these courts and the strengthening of the regular judiciary. We have also criticized the continued use of incommunicado detention without clear regulatory restrictions, and the government's decision to deny access by impartial monitors to pre-trial detention centers. We believe these to be serious human rights problems and we call on the Nicaraguan government to correct them; we believe, however, that these abuses do not justify the Reagan Administration's use of them in inflammatory rhetoric to justify its actions against the Sandinista regime.

B. Freedom of expression and religion

> "[T]he Sandinistas are attempting to force Nicaragua into a totalitarian mold . . . suppressing internal dissent, clamping down on the press, persecuting the Church, linking up with terrorists of Iran, Libya and the PLO, and seeking to undermine the legitimate and increasingly democratic governments of their neighbors." (Secretary of State Shultz, February 1985[1].)

The Administration has been forceful in condemning what it has called the characteristics of "totalitarianism" in Nicaragua — in particular the government's tense relations with the opposition newspaper *La Prensa* and with the Bishops' Conference, and alleged anti-Semitism on the part of the authorities. In a typical resume of Nicaraguan history, President Reagan portrays the Sandinistas as having forcibly silenced their critics as part of an ideological plan, immediately after coming to power in 1979:

> "Functioning as a satellite of the Soviet Union and Cuba, they [the new Sandinista government] moved quickly to suppress internal dissent, clamp down on a free press, persecute the church . . .[2]"

Similarly, the then-director of the White House Outreach Group on Central America, Faith Ryan Whittlesey[3], has claimed that Nicaragua's government "attacked the Catholic Church, most Protestant churches and . . . forced virtually the entire Jewish population of Nicaragua into exile[4]".

These charges are worded to mislead. The Sandinistas did not "clamp down on a free press", for under the Somozas a free press did not exist[5]. The churches are not under "attack", but rather, embroiled in debates which have divided the religious community itself. And the charge of anti-Semitism, including words like "force", "exile", and "entire population", is evidently calculated to cause outrage but avoid the facts. We examine the substance of the issues below.

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[1] "America and the Struggle for Freedom", Address before the Commonwealth Club of California, February 22, 1985, p. 9 (as prepared for delivery).

[2] From the President's weekly radio speech of February 16, 1985, quoted in Lou Cannon, "Reagan Denounces Sandinistas, Urges Funds for Rebels", *Washington Post*, February 17, 1985, p. A4.

[3] Mrs. Whittlesey has been replaced, and her successor at the White House has canceled the Working Group. In its day the program was what the *New York Times* called a "Show-and-Tell", inviting mainly conservative groups to hear talks by Administration officials and Central American figures — a majority of them speaking on the evils of Nicaragua.

[4] Introductory remarks, official transcript, "Speech by Archbishop Roman Arrieta of San Jose, Costa Rica, Before the White House Outreach Working Group on Central America, on Octobr 17, 1984".

[5] Under the Somozas, the editor of *La Prensa* was, at various times, imprisoned, internally exiled, prohibited from travel, and eventually murdered. Aside from censorship, Anastasio Somoza at times required *La Prensa* to publish articles that were favorable to him — illustrated by his photograph — to which the newspaper was given no right to reply. Towards the end of the Somoza period, *La Prensa* was subjected to bombings and machine-gun attacks and, eventually, Somoza's National Guard burned it to the ground. *La Prensa* re-opened after the Sandinistas came to power.

The Press

There are three major newspapers in Nicaragua, one of which is the Sandinista Front organ, *Barricada*; one of which is the privately-owned *El Nuevo Diario*, which supports the government; and a third, *La Prensa*, which supports the opposition. Radio, which is owned by private companies, offers some independent news. Television is State-owned and managed. While the Reagan Administration calls *La Prensa* "the independent press", the Nicaraguan government calls it deliberately provocative. In the pro-Sandinista press, *La Prensa*'s complaints of inordinate censorship have been dismissed as "loud-mouthed" attempts to gain attention from foreign news agencies.[1]

The issue of censorship in Nicaragua involves the government's claim that it may limit certain freedoms during a national emergency under the principle of derogation, contemplated in the applicable international human rights agreements. Accordingly, President Daniel Ortega has pointed to the United States-funded *contra* war as the cause of the emergency and, therefore, the reason for censorship:

> "If Mr. Reagan really wants the full restoration of political and civil rights, he need only stop the war. My government is committed to lifting the state of emergency and restoring full press freedom and other rights as soon as that occurs.[2]"

Sporadic censorship under the Sandinistas began in 1980, but it was not until March 1982, with the imposition of the state of emergency to deal with the United States-sponsored *contra* threat, that *La Prensa* faced prior censorship. Since then, the paper has never been closed down by the government, but rather has suspended publication for days at a time to protest specific censorship decisions. But neither has the government of Nicaragua stayed within the limits of its own 1982 emergency legislation, which in 1984 was replaced by legislation restricting censorship to militarily-sensitive matters. The amendment itself, it should be noted, was a positive step; and since mid-1984, censorship has been less severe than previously. (The exception was a brief period in mid-November 1984 during the national hysteria over an anticipated United States invasion that accompanied the false reports, emanating from the United States, that Nicaragua had acquired MiG jets from the Soviet Union.) Nonetheless, even during the relatively relaxed period prior to the November 4, 1984, national elections, items censored from *La Prensa* included a variety of non-military stories, such as coverage of campaign meetings of an opposition coalition, Coordinadora Democratica, and reporting on pro-government demonstrations that disrupted those meetings. As Americas Watch noted in our report on freedom of expression during the elections[3], *La Prensa* refused to publish on October 22 after being prevented from reporting on one party's decision to withdraw from the race.

There is little dispute as to the political mission of *La Prensa*. Like many Latin American newspapers, it is highly partisan, such that the giant final rally of the Sandinista candidates in the 1984 election campaign was simply ignored. (The Reagan Administration is an enthusiastic supporter of *La Prensa* and, as such, it was given a grant of $100,000 by a United States Government-established and -financed agency, the National Endowment for Democracy. No such grants have been made available to newspapers in Chile, Haiti, Paraguay or other Latin American countries where even more severe censorship has been practiced.)

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[1] Foreign Broadcast Information Service (FBIS), January 15, 1985, p. 13, from *Barricada*, January 10, 1985.

[2] "Why the US Must End its War", Op Ed, *New York Times*, March 13, 1985.

[3] "Freedom of Expression and Assembly in Nicaragua During the Election Period", Americas Watch (New York, December 1984), p. 6.

Whatever the newspaper's motivation or quality, however, its right to publish non-security-related information has been abused on frequent occasions. The Administration does no service to honest advocates of free expression, in and outside Nicaragua, by falsely implying that the pre-Sandinista press was free. The government, on the other hand, should end censorship that is not strictly necessary to meet the emergency caused by the *contra* conflict.

The churches

> "Because they do not realize the totalitarian direction of the Sandinistas, there are even some Catholic Bishops in the United States who are still supportive of the Nicaraguan regime." (White House *Digest*, October 31, 1984.)

This quotation takes an inflammatory assumption ("totalitarian direction") and then seeks to discredit a hypothetical group ("some" United States bishops) for failing to support it. The paper from which the statement is taken — a White House document titled "What Central American Bishops Say About Central America" — offers numerous comments from Nicaraguan Catholic Church figures as evidence for the premise that, in Nicaragua, the confrontation between church and State is relevant to the Administration's backing of *contra* rebels. The paper begins by dismissing "critics of Administration policies in Central America [who] often cloak their criticism in the mantle of the Catholic Church" — thus claiming the Church's implied *real* position as its own.

The issue is certainly an important one. With the exception of the *contras'* identity and practices, perhaps no issue in Nicaragua arouses so much emotion as the debate between the Catholic Church hierarchy and government, which has involved both substantive issues and heated rhetoric on both sides[1]. Archbishop (now Cardinal) Miguel Obando y Bravo of Managua has been called a "reactionary political ideologue" and the "spiritual leader of the entire right wing" by members of the government's top leadership[2]. Obando in turn has made strong anti-Sandinista comments at home and abroad[3]. The Reagan Administration has characterized these tensions as meaning that the Church, as an institution, is suppressed in Nicaragua, because it stands for human rights and against Marxism. When the Administration charges, as it does frequently, that former opponents of Somoza have now turned against the revolutionary government, it is referring in part to such figures as Obando and other bishops, who criticized the Somoza regime.

Some 80 per cent of Nicaraguans are at least nominally Catholic. There are significant differences of opinion within the church as to whether and how much to support Sandinista policies. Similarly, there are differences of opinion about the church among Sandinistas. Nicaraguan officials frequently point to the presence of four priests in high government posts as evidence of *Sandinismo's* bonds with the church, while the public offices held by these priests have been one of the church's principal grievances against the government. While some Sandinista elements regard religion as archaic, the official FSLN communique on religion, originally published in October 1980 and since reaffirmed, states that "The FSLN has a profound respect for all religious celebrations and traditions of our people". The communique, itself controversial, is considered by some as an intrusion into private matters, while others regard it as evidence of Sandinista flexibility and of a departure from traditional Marxist attitudes towards religion [1]. But the conflict between church and State in Nicaragua centers less on questions of religious freedom than on political differences. Even the State Department's *Country Reports* on Nicaragua do not claim that Catholics are persecuted for their faith. The church hierarchy, supported by many (though not all) clergy, has assumed the role of gadfly; by and large the government has not attempted to restrain it from doing so. The major exception is the expulsion of ten foreign priests in July 1984. The priests were expelled after participating in a march to support another priest, accused by the government of channeling munitions to the *contras*. Here the issue was freedom of speech and assembly, not religious freedom. (The Americas Watch, like many other organizations, has called on the government to reissue visas to these priests.)

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[1] Latin American history is replete with far more severe conflicts between church and State, such as the murderous violence in Mexico in the 1920s and 1930s; the conflict between the government of President Juan Peron in Argentina and the church in the mid-1950s; the murders of priests and nuns in El Salvador that included the murder of four United States churchwomen and of Archbishop Romero in 1980; and the murders of priests in Guatemala that led to the closing of the diocese of El Quiche in 1981 and the murder of Fr. Augusto Ramirez Monasterio in Antigua, Guatemala, in November 1983.

[2] "Sandinista Cleric Defends His Stand", *New York Times*, December 11, 1984. The remarks are attributed, respectively, to Interior Minister Tomas Borge and Vice President Sergio Ramirez.

[3] "Conflict with Sandinistas Cited in Church Bid for Foreign Funds", *New York Times*, August 4, 1984. Archbishop Obando had visited New York the previous month. A business executive with whom he met had quoted Obando as saying that helping the church was the best way to fight Marxism-Leninism in Nicaragua.

The episode that has come to symbolize the conflict between church and State in Nicaragua is the March 1983 incident in which some Sandinista militants heckled Pope John Paul II during a public speech that he delivered on a visit to Managua. The Pope had called on Catholics to rally behind the bishops and apparently angered part of the crowd because he failed to condemn the attacks on Nicaraguans by the *contras*. Though those who interrupted the Pope might well be criticized for their rudeness (and, by more sophisticated partisans of the Sandinistas, for injuring their own cause) this episode did not involve an intrusion on religious freedom [2].

An example of the complex church-State relationship in Nicaragua — and the Reagan Administration's misuse of the issue for its own purposes — is the bishops' Easter pastoral letter of 1984. The bishops' letter created controversy by calling upon the government to open direct negotiations with the *contras* and by failing to note *contra* abuses of human rights. At the same time, the letter pointedly opposed intervention, stating:

> "Foreign powers take advantage of our situation to encourage economic and ideological exploitation. They see us as a support for their power, without respect for our persons, our history, our culture and our right to decide our own destiny."

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[1] See, "Report of Delegation to Investigate Religious Persecution in Nicaragua", National Council of Churches of Christ in the USA, November 2, 1984, p. 13; and Cesar Jerez, SJ, *The Church and the Nicaraguan Revolution*, Catholic Institute for International Relations (London, 1984), pp. 15-16.

[2] Although officials of the Reagan Administration point to debates between church officials in Nicaragua and government officials over questions of public policy as examples of repression of religion, the Administration enages in analogous debates with churches in the United States. For example, the outgoing Assistant Secretary of State for Inter-American Affairs, recently criticized churches in the United States for opposing United States policy in Central America. "Religious persons should not use the credibility they enjoy to market their personal, philosophical and political beliefs", said Motley. *The Washington Post*, June 30, 1985.

In the Administration's hands, this statement became an argument against only one foreign power. The White House *Digest* quoted above included the comment:

> "Some observers see in this statement a reference to criticism of the Sandinistas' ties to Communist countries, especially Cuba. This is a logical assumption . . ."

But it is not logical. Whatever "some observers" may see, the statement is even-handed; it opposes intervention from all quarters[1].

With similar zeal the Administration has portrayed the Protestant churches of Nicaragua as persecuted on religious grounds. In 1984, it widely publicized the United States visit of a Pentecostal, Prudencio Baltodano, who stated that he had been brutally treated by Sandinista soldiers during a military operation; one of Baltodano's ears was cut off. Baltodano's experience, while certainly evidence of an abuse of power, does not appear to have been due to his faith, as the Administration charged[2]. The Administration has claimed, however, that several Protestant groups have been victimized, including the Seventh-Day Adventists, Mennonites, Jehovah Witnesses, Mormons and Moravians.

A high-level delegation from the National Council of Churches visited Nicaragua in November 1984 specifically to investigate charges of religious persecution. They found the charges entirely without substance. The growth of the Protestant community since 1979 (from 80,000 to 380,000) would tend to support this finding. The delegation reported that all the Protestants it interviewed — including members of the Moravian Church, which has played a delicate role in the conflict between its Miskito constituency and the government — stressed that their greatest concern was *contra* attacks. The delegation also reported that its sources had criticized the Catholic hierarchy for "transfers and forced isolation of priests and communities who openly sympathize with the Nicaraguan political process"[3].

The issue of anti-Semitism

In mid-July 1983, the then-ambassador to Nicaragua Anthony Quainton cabled to the Department of State that he knew of "no verifiable ground" for accusing the Sandinistas of anti-Semitism[4]. Four days later, however, on July 20, at a meeting of the White House Outreach Group with Rabbi Morton Rosenthal of the Anti-Defamation League of B'nai B'rith (ADL), President Reagan himself stated that anti-Semitism was a consistent policy of the Sandinistas: "The Sandinistas seem always to have been anti-Semitic . . . After the Sandinista takeover the remaining Jews were terrorized into leaving[5]."

These remarks were struck from the White House *Digest* of the meeting — an unusual move, explained to the press later as having been taken because the allegations "couldn't be proven"[1]. Nevertheless, the anti-Semitism charge has been reiterated by Administration officials in various ways: in an extended paragraph in the *Country Reports* for 1983[2]; outright by such White House representatives as Faith Ryan Whittlesey (see above); and most suggestively by reference to the Sandinistas as Nazis. In this third category come the remarks of Elliott Abrams during a March 14, 1985, meeting of the House Human Rights Caucus, when the then-Assistant Secretary of State for Human Rights compared the Sandinistas' case before the International Court of Justice[3] with Nazis seeking cover of international law during the Holocaust. Such comparisons trivialize the Nazi horror as well as distorting the Nicaraguan situation.

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[1] For a detailed and lucid critique of the White House paper, see Thomas E. Quigley, "When Research Masquerades", *Commonweal*, 5 April, 1985.

[2] "Miraculously he survived and is now in the United States witnessing to the sad truth of religious persecution and torture", wrote Faith Ryan Whittlesey in a letter to the *Washington Post* (July 28, 1984).

[3] "Report of the Delegation . . .", *op. cit.*, p. 4.

[4] Cable of July 16, 1983, as quoted by Robert Parry, Associated Press dispatch, September 20, 1983.

[5] Quoted by Cynthia Arnson, in one of three articles that compose "Nicaragua: A Special Report", *Moment*, October 1984 issue, p. 21. The special report, which also contains articles by Robert Weisbrot and Rabbi Morton Rosenthal, is an excellent summary of this debate and its background in the Nicaraguan context.

American Jewish organizations have debated the issue of Nicaraguan anti-Semitism extensively since 1982, when the ADL first alleged discrimination and intimidation on behalf of some 35 Jewish Nicaraguan exiles. (The practicing Jewish community of Nicaragua in 1979 totaled about 50 persons; today, about a dozen.) The American Jewish Committee and the World Jewish Congress, among others, investigated the ADL charges — ranging from discriminatory confiscation of the Managua synagogue, to official anti-Jewish rhetoric, to anti-Jewish sentiment as corollary to pro-PLO anti-Israel sentiment — and found they could not be substantiated. The United Nations, the OAS Inter-American Commission on Human Rights and Pax Christi reached the same conclusion. CPDH's Marta Baltodano, a forceful critic of the Sandinistas, told the Americas Watch in February 1984 that she considered that the charge of anti-Semitism was without merit. (The International League for Human Rights has reported anti-Semitism, basing its report on ADL information.)

In August 1984, a human rights delegation organized by the New Jewish Agenda and including a member of the American Watch, Hector Timerman, as well as Rabbi Marshall Meyer, Vice President of the University of Judaism in Los Angeles (who played a heroic role in the struggle against anti-Semitism and human rights abuses generally under the 1976-1983 military dictatorship in Argentina) also found that although the Nicaraguan government at first responded to the allegations in an unsatisfactory manner, there was no policy of anti-Semitism and indeed officials showed a willingness to correct misapprehensions and mistakes. The delegation further declared that charges of anti-Semitism "should not become used as a partisan political gambit in the United States"[4].

The issue did not arise in a vacuum. A few Nicaraguan Jews who were wealthy and in some cases associated with Somoza, suffered confiscation of their property, and, whether reasonably or not, felt safer leaving. In addition, in Nicaragua as elsewhere in Catholic Latin America, there does exist a measure of what could be called cultural anti-Semitism, which surfaces in disturbing places. Archbishop

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[1] *Op. cit.* footnote 5, p. 419, *supra.* Quotation from the *Washington Post*.

[2] P. 643. The paragraph cites no specific incidents relevant to 1984, instead reaching back as far as 1978 before the Sandinistas were in power. Part of its argument for Nicaraguan government anti-Semitism rests on the FSLN's relations with the PLO, while none of the independent reports on actual government policy — that is, the absence of anti-Semitism — is mentioned.

[3] After the CIA mined Nicaragua's principal harbor in 1984, the Nicaraguan government presented a case for condemnation of United States aggression before the International Court of Justice in The Hague; when the ICJ issued a temporary injunction against the United States, the Reagan Administration took the stance that the Court had no jurisdiction; when the ICJ rejected that United States position, the Reagan Administration announced it would not comply with the Court's decision when it is finally issued.

[4] "Report of the Jewish Human Rights Delegation to Nicaragua, August 12-17, 1984", p. 11.

Obando's homily of October 7, 1984, as printed in *La Prensa*, contains unmistakeable references to Jews as the slayers of Christ, for example[1]. But Jews remaining in Nicaragua worship without restrictions and suffer no discrimination. While the property of some has been confiscated, this has not been true for Jews as a group, nor does it appear to relate to the fact that they are Jews. While a few prominent Jewish businessmen have been charged with crimes under the Somoza régime, their family members have not been affected.

The case about which the Administration has made most complaint, that of the confiscated Managua synagogue, is typical of the distortion surrounding the issue. The synagogue was indeed confiscated after the 1979 Sandinista victory; it was converted into a children's association headquarters. (Foreign visitors report it was not defaced or otherwise attacked.) But although the synagogue had belonged to the Jewish community as a whole (not, as Nicaraguan officials first claimed, to a pro-Somoza exile), that community had abandoned it prior to the Sandinista victory; the building was unused. When the government in 1983 offered to return the building, and made plans to move the children's association elsewhere, Managua's remaining Jews stated that they could not afford to keep it up. It may be put to another use supportive of the Jewish community if funds can be raised.

What the ADL and other American Jewish organizations do agree upon, as Rabbi Rosenthal has stated, is that in Nicaragua there is no official policy of anti-Semitism[2]. The problems which do remain, demand sensitivity on the part of Nicaraguan officials and citizens alike. They also require cool appraisal in the United States, so that the moral weight of the issue is not used irresponsibly in the service of a confrontational military policy.

Domestic Human Rights monitors

The Reagan Administration and its allies continually cite the Comision Permanente de Derechos Humanos (CPDH) as the ultimate source of information on human rights violations attributed to the Nicaraguan government. Almost invariably, however, CPDH is cited for figures that are higher than those it had actually published. Often, these misleading quotations are accompanied by statements to the effect that CPDH conducts its work under serious threats and harassment from the authorities. The *Country Report* for 1984, for example, alleges: "The independent CPDH suffered continued harassment from the government in 1984, including the detention of its workers and interference with the distribution of its reports[3]." In fact, not a single incident of that sort took place in 1984.

The most difficult time in CPDH's relations with the Nicaraguan government was in 1981, when the security forces arrested José Esteban Gonzalez, who was then national coordinator for CPDH, and held him incommunicado for a few days. Simultaneously, the offices of CPDH remained closed for a week by official orders. After his release, Gonzalez made critical statements abroad and, upon his return to Nicaragua, was met by angry crowds at the airport, possibly organized by the government or the Sandinista Party. In early 1982, when he was out of the country, a member of a *contra* group apprehended by the government accused him of participation in a plot to blow up an oil refinery and a cement plant. Gonzalez was tried and convicted *in absentia* and has remained in exile since then.

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[1] "... the leaders of Israel ... mistreated [the prophets], beat them, killed them. Finally as supreme proof of his love, God sent his Divine Son; but they ... also killed him, crucifying him." "The Jews killed the prophets and finally the Son of God ... such idolatry calls forth the sky's vengeance."

[2] "Nicaragua: A Special Report", *op. cit.*, p. 22. Rabbi Rosenthal further clarifies that the ADL did not claim that such a policy exists.

[3] P. 623. No such criticism appeared in the *Country Report* dealing with El Salvador, even though several employees and officers of human rights organizations have been killed or have "disappeared". Nor has such criticism appeared in the *Country Report* on Guatemala where it has been too dangerous for any human rights organization to operate within the country.

By that time, Marta Patricia Baltodano, a vigorous and outspoken staff attorney with CPDH, had replaced Gonzales in the position of national coordinator, which she still holds. In July 1982, a member of the staff was arrested while distributing CPDH material and sentenced to two months in prison on misdemeanor charges for allegedly treating a police officer with disrespect. In spite of international complaints, including by Americas Watch, the employee served out his two-month term.

Since 1982 there have been no similar official actions against the organization, though relations with public officials are always testy. Many government agencies, including courts, refuse to recognize the legal existence of CPDH and will conduct business with CPDH members only if they intervene in their private capacities and not as representatives of the institution. In the meantime, CPDH has continued to publish widely circulated monthly reports on human rights violations — often including very condemnatory information and language — without any repercussions.

Another private human rights organization has been active in Nicaragua since 1983. The Moravian Church has established an Association of Jurists of the Atlantic Coast that provides the services of lawyers and other professionals, mostly to the Miskito population. In addition to its casework, the Moravian Church has become by far the most reliable source of information on events in the Atlantic Coast region, and a powerful advocate for changes in governmental policies towards the Indian minorities. Their public denunciation of the violent activities of the *contras*, however, makes them an inconvenient symbol for the Reagan Administration; this may explain why *Country Reports* and other Administration pronouncements ignore their existence.

An important factor in protecting human rights in Nicaragua is that the International Committee of the Red Cross maintains a large and active program within the country, visiting prisoners, tracing missing persons, and providing a variety of services to the displaced. The ICRC suspended prison visits in November 1983 when the Nicaraguan authorities attempted to restrict its access to specified areas of the prisons; this dispute was resolved after several weeks by the Nicaraguan government's agreement to provide the access to prisoners in their cells sought by the ICRC, and the ICRC resumed visiting the prisons. The section of the State Department's *Country Report* on Nicaragua for 1984 that deals with non-governmental investigation of human rights makes no mention of the ICRC. In contrast, the *Country Report* on Guatemala misleadingly asserts that a Regional Delegate of the ICRC visited Guatemala in March 1984, but fails to mention that the ICRC is prohibited from carrying out its program in Guatemala though, for the most part, it is able to carry out its program in Nicaragua.

C. *The Miskitos*

> "I am a Jew in a world still threatened by anti-Semitism, I am an Afghan, and I am a prisoner of the Gulag . . . I am a Laotian, a Cambodian, a Cuban and a Miskito Indian in Nicaragua. I, too, am a potential victim of

totalitarianism." (President Reagan, Remarks outside Bergen-Belsen Concentration Camp, May 6, 1985.)

The Administration's rhetorical campaign against Nicaragua has found its most effective metaphor in the Miskitos. An Indian minority of 100,000-120,000, many of whom traditionally live on the eastern ("Atlantic") coast near the Honduran border, the Miskitos have become the President's favored symbol of the alleged cruelty of the Sandinistas.

Yet, as the selectivity of the Bergen-Belsen remarks would indicate, the Miskitos have been regarded by this Administration in a geopolitical rather than a national or cultural context. Accordingly, Jeane Kirkpatrick, then United States ambassador to the United Nations, could tell a Senate Foreign Relations subcommittee in March 1982 that Sandinista abuses of the Miskitos were "more massive than any other human rights violations that I'm aware of in Central America today"[1], ignoring the far more widespread and immeasurably more brutal treatment of Guatemalan Indians by the "friendly" military of that country and the murders of some 13,000 civilians by the armed forces and death squads of El Salvador during the previous year. And the then-Secretary of State Alexander Haig, who accused the Sandinistas of genocide, could present a Congressional committee with photographs he identified as Miskito villages set aflame by the Nicaraguan government, although they later proved to be nothing of the kind[2].

In his landmark May 9, 1984, televised speech on Central America, the President drove home his version of the Nicaraguan human rights situation by accusing the Sandinistas of

> "an attempt to wipe out an entire culture, the Miskito Indians, thousands of whom have been slaughtered or herded into detention camps where they have been starved or abused".

The picture thus created is terrifying. It is also not accurate, although the President has repeated these charges, almost in the same words, as recently as June 1985[3]. There has never been evidence of racially motivated or widespread killing of Miskitos. In May 1984, the Inter-American Commission on Human Rights, after a thorough investigation of the Miskito issue, found one incident in which a group of Miskitos was killed by Sandinista forces (the 1981 Leimus case). Americas Watch has evidence on one other 1982 incident at Walpa Siksa, involving seven deaths. Both cases occurred in war zones. There is no evidence that they were directed or condoned by the central government, though the central government never met its responsibility to disclose publicly the results of any investigations it carried out and details about the punishment of those officials who were responsible. The relocations of January-February and November 1982 — the events to which the President was apparently referring in his television speech — were not aimed at the Miskito culture or people as a whole; in fact some 10 per cent of the Miskito population was affected (about 11,500 total) and the policy was clearly prompted by military considerations[1].

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[1] "UN Envoy Says Nicaraguan's 'Assault' on Miskitos Is Massive Rights Violation", *Washington Post*, March 2, 1982.

[2] The photographs had been taken by the International Committee of the Red Cross (ICRC) and actually showed the corpses of Nicaraguan civilians killed by Somoza's National Guard; the bodies had been burned by the ICRC itself to prevent infection.

[3] In a speech in Birmingham, Alabama, on June 6, the President stated that the Sandinistas are conducting "a campaign of virtual genocide against the Miskito Indians".

The Miskitos living along the border area were moved to clear the most violent conflict zone of civilians; some 60 persons had already been killed in *contra* attacks. Also, the Nicaraguan government undoubtedly feared that some of the Miskitos in the area would aid the *contras* and relocated them to make the border areas easier to defend. And while organizations such as Americas Watch were critical of the manner in which the relocations were carried out, with inadequate notice, transportation or compensation for destroyed homes and belongings, and without an opportunity to participate in the decision, there is no serious dispute as to the military justification of the move; both the IACHR and the Nicaraguan Conference of Bishops have recognized its necessity. Investigations of the relocation settlements, moreover, have shown that they bear no resemblance to "detention camps". At the outset, there were some loosely enforced restrictions on the movements of those who were resettled. During the last three years, however, residents have been able to enter and leave freely, even permanently relocate elsewhere so long as it is not in the war zone; the government has provided assistance with crop development, housing, health care and jobs; while most Miskitos wish to return to their original land and homes, many acknowledge that the housing and land available to them in the new settlements is frequently superior to what they had before.

That the Sandinistas did mistreat Miskitos during 1981 and 1982 has been extensively documented by Americas Watch, among others. In the course of military sweeps in the border area during 1981 and 1982, government soldiers often carried out arbitrary arrests. In so far as Miskitos were joining the two Indian *contra* groups, Misura and Misurasata, the Miskito community as such was regarded as unfriendly to the government. From 1982 there remain 69 unresolved cases of Miskito "disappearances", for which the government must be held to account.

Improvements in this area, on the other hand, have been dramatic. Since 1982, we are aware of one Miskito disappearance. According to Moravian Church sources, working closely with the Atlantic Coast communities, government troops no longer arrest without probable cause and now display a more sensitive attitude toward the civilian population, as do appointed local representatives of the central government.

The Nicaraguan official response to criticism about the Miskitos was, early on, to request that the IACHR mediate a "friendly settlement" with the Miskito community. In February 1982, only one month after the first relocation, the government invited the IACHR to conduct an on-site investigation. The government's position, with regard to the relocation, was expressed in a February 24 note to the IACHR:

> "Our government has been obliged to defend our country's sovereignty and at the same time protect the Miskito population from Somocista bands by relocating them in a safe place . . . In the Miskito settlements the most basic of all rights, the right to life, is fully protected. The government of

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[1] There are, of course, certain analogies between the forcible relocation in Nicaragua and the forcible relocation of the Japanese-Americans from the West Coast during World War II. The differences are: that the United States forcibly relocated only those from one racial group whereas Nicaragua relocated all the residents in particular areas; the United States acted despite the fact that it was not invaded whereas Nicaragua acted only after there had been fighting in the region affected; and the United States interned 112,000 Japanese-Americans for the duration of the war whereas the Miskitos were never interned.

> National Reconstruction and the Sandinista Front for National Liberation carries out integral programs to improve and lend dignity to their living conditions, especially with respect to health, education and housing[1]."

In response to an IACHR recommendation, the government in December 1983 declared an amnesty for all Miskitos detained on security-related charges. Under that amnesty, and a second one in May 1985, all Miskito political prisoners have been released, including those convicted of serious offenses. Also at the IACHR's urging, the government in 1984 began talks with Brooklyn Rivera, leader of the Indian *contra* group Misurasata. As part of the process, Rivera visited Miskitos inside Nicaragua to discuss bases for a possible political settlement of their grievances over land and cultural rights. (At this writing, a settlement has not been achieved and does not seem to be imminent. Americas Watch is not sufficiently knowledgeable about the matters that remain in dispute to express a judgment on them.) The government further has pledged to the relocated Miskitos that they may return to their homes on the coast when hostilities end. Indeed, the process of returning has started. More than 900 Miskitos — members of nine communities that in 1983 were relocated to a place called Sangni Laya — all returned to their places of origin in early 1985. At least one community, called Bismuna, which had been forced to leave the border area in January 1982, has been allowed to return to the Bismuna lagoon near Cape Gracias a Dios.

But the Administration's most serious human rights document, the *Country Report*, persists in purveying an outdated and exaggerated version of the issue. The 1984 *Country Report* stated, in its introductory summary:

> "There are continuing credible reports that the security forces have tortured and killed Miskito Indians and have confiscated or destroyed their food supply and property[2]."

Such "credible reports" do not exist with regard to the year to which the report refers, 1984. The accusations coming from *contra* spokesmen have not been substantiated by independent investigators, either in the Moravian Church or in CPDH. As if to manufacture credibility the *Country Report* selectively quotes the IACHR's May 1984 report on Nicaragua ("hundreds of Miskitos have been arbitrarily arrested . . .") without clarifying that the IACHR statement refers to 1982 and that the practice has ended.

As much as it ignores positive developments, the Administration has also ignored evidence that, for the past two years, the most serious abuses of Miskitos' rights have been committed by the *contra* groups, principally Steadman Fagoth's Misura. Section II of this report deals with the *contras'* human rights practices in some detail; it is sufficient here to note the Misura practice of recruiting Miskitos by force, and the fact that, in Honduras, *contras* intimidate those who are unwilling to remain involved in their activities. Miskitos have been kidnapped from Nicaragua by *contra* forces, but when witnesses have visited the United States to expose the facts, the Administration has treated them as unreliable.

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[1] The implication that relocation might also be justified by a desire to protect the Miskitos themselves was rejected by Americas Watch. Relocation of people against their will can only be justified by imperative military necessity, in our view. In this case, that justification existed.

[2] P. 609.

This was the case with three Miskito witnesses to the April 1984 Misura attack on Sumubila, a resettlement camp[1].

Conversely, when the Nobel Laureate and human rights activist Adolfo Perez Esquivel publicized an attack on Miskitos in Honduras, the Administration took the incident as ammunition — although Perez Esquivel did not accuse the Nicaraguan government, but the Honduran army. The incident, which took place at Kiwas Tara, Honduras, in January 1984, resulted in eight Miskito deaths; various versions have emerged, and none has been proven. Nonetheless, the 1984 *Country Report* flatly states that "On January 11, 1984, a Nicaraguan Army patrol crossed into Honduras and killed 11 Nicaraguan Miskito Indians . . ."[2]. Perez Esquivel's allegations, based on interviews in Honduras, are completely omitted.

Selective identification with the Miskitos on the part of the Administration — the use of Miskito grievances only when it suits the Administration's larger goals in Nicaragua — makes the President's Bergen-Belsen statement ring hollow indeed. Were this Administration truly to sympathize with the Indians of Nicaragua, its spokespeople should acknowledge that the Miskito community is as divided in its attitude toward the *contras* as it has been toward the government; and that, of the two forces, the government in recent years has shown the greater sensitivity. This partially explains why, as the *New York Times* reported on April 9, "Miskito Indian rebels fighting the Nicaraguan Army are disenchanted with their leaders and have largely stopped their guerrilla operations in recent months".

D. Political participation: the November 1984 election

> "The Sandinista government has never been legitimized by the people." (President Reagan, News Conference, Lisbon, May 10, 1985.)

> "The elections were an important step in themselves. The results open the way for further steps in the transition from dictatorship to the institutionalization of a democratic system of government. This process of transition is far from over, but the opening, in the form of a genuinely representative national Assembly and the commitment to regular elections in the future, already exists." (Parliamentary Human Rights Group[3].)

Before the Sandinistas came to power in 1979, they promised the country elections. Some opposition elements balked at the holding of elections immediately after the Sandinistas' immensely popular victory over Somoza. By common agreement, if the elections had been held in the immediate aftermath of the revolution, the Sandinistas would have triumphed overwhelmingly.

The Sandinistas did not hold elections immediately but announced that they would be held in 1985. This decision was portrayed by the Reagan Administration as evidence that the FSLN refused to share power and was, instead, building a totalitarian State. Yet, when the Nicaraguan government announced in early 1984 that elections would be moved up to November of that year, President Reagan denounced them as "Soviet-style sham elections"[1] at a time when negotiations on electoral procedures and participation were just beginning.

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[1] A Misura contingent attacked this Miskito settlement on April 14, using indiscriminate rocket fire against houses and thereby killing six persons, including two children and one elderly woman. Setting fire to the hospital, the ambulance, a warehouse and a community meeting house, the *contras* then forced residents out into the streets. Those who worked with the government were singled out and kidnapped, including the settlement's only physician. Some additional residents appear to have left with the *contras* voluntarily.

[2] P. 610.

[3] "Report of a British Parliamentary Delegation to Nicaragua to observe the Presidential and National Assembly elections, 4 November 1984", p. 27. The PHRG delegation consisted of MPs representing the Social Democratic Party, the Conservative Party and the Labour Party.

For a brief period the Administration's attitude toward the elections contained contradictions. On February 11, for example, President Reagan stated that the Sandinistas should "subject themselves, or submit themselves, I should say . . . to the will of the people, by way of elections and voting"[2]. A few days earlier, however, Secretary Shultz had addressed the Nicaraguan situation with the remark: "An election just as an election doesn't really mean anything . . . there are elections in the Soviet Union[3]." The dominant line, however, quickly became one of condemnation. In two unusual special reports on human rights in Nicaragua, published in the second half of 1984[4], the Administration tried to discredit the electoral process, contending that the upcoming vote was merely an effort to improve the Sandinista's international image.

At the same time, the Administration put pressure on moderate and conservative Nicaraguan politicians to withdraw from the electoral process. The United States press has since disclosed the extent of that pressure. As the *New York Times* quoted a United States official, with regard to the candidate of one opposition group:

> "The Administration never contemplated letting Cruz stay in the race . . . because the Sandinistas could justifiably claim that the elections were legitimate, making it much harder for the United States to oppose the Nicaraguan government[5]."

In this manner, the Administration sought to catch the Nicaraguan government in a no-win situation: without elections it was "totalitarian", but the elections it held were dismissed well in advance as a propaganda exercise, with considerable United States effort put to limiting their effectiveness. Nonetheless, the Administration's own *Country Report* for 1984 — while calling the elections "flawed" and emphasizing the decision of several parties to withdraw — noted that "Many foreign observers reported that the balloting appeared to be orderly and honest"[6]. The elections were, clearly, a complex matter.

In the voting on November 4, the FSLN won 63 per cent, while opposition parties of moderate-conservative views won most of the remainder and 7 per cent of votes were invalid[1]. These results gave the opposition some 30 per cent of the seats in a new legislative and constituent assembly — enough to challenge Sandinista policies. Several parties that chose not to participate have joined a "national dialogue" with the government, in which they have freely voiced their dissent and grievances.

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[1] "Week in Review", *New York Times*, July 22, 1984.

[2] "Transcript of Interview with the President on a Range of Issues", *New York Times*, February 12, 1985.

[3] "Shultz Criticizes Nicaragua Delay", *New York Times*, February 6, 1985.

[4] "Broken Promises" and "Resource Book: Sandinista Elections in Nicaragua". The Administration argued that elections in Nicaragua were intended to satisfy the Contadora requirement for free and fair elections in all Central American countries. The Administration had raised no such doubts about elections in Guatemala or El Salvador, which also had occurred during the period of Contadora discussions.

[5] October 21, 1984, "US Role in Nicaragua Vote Disputed", *New York Times*. The fact that Cruz did not participate narrowed the choice available to Nicaraguan voters and, thereby, diminished the significance of the elections. His refusal to take part came after the failure of prolonged negotiations with the FSLN over such questions as the date of the elections and press censorship. Both sides in the negotiations charged the other side with bad faith. Americas Watch has expressed no opinion on these charges. We were not present at the negotiations and could only speculate about the motivations of the negotiators and the constituencies to which they were responsible.

[6] P. 622.

The Americas Watch studied two aspects of the electoral process: the exercise of press freedoms and the right to free assembly during the election period. We concluded that incidents of excessive censorship of *La Prensa* did take place, and that free assembly was restricted in a number of cases. The Americas Watch report noted that in early August 1984, the state of emergency was amended, easing restrictions in Nicaraguan territory not directly affected by the military conflict. After the amendment, according to the editor of *La Prensa*, censorship was markedly reduced; nonetheless, we found that the ongoing censorship went beyond the provisions of the law, as in regard to articles reporting opposition to the draft. At the same time, *La Prensa* was permitted to publish extensive coverage of opposition campaigning, including speeches harshly critical of the government. As to freedom of assembly, there were five serious incidents of disruptions of opposition rallies by FSLN supporters. In no incident were there serious injuries; the police prevented violent contact, although they did not prevent disruption. Opposition spokesmen claimed the "mobs" demonstrating in this fashion were organized by the government; Nicaraguan officials denied this and indeed several called on FSLN symphathizers to respect the opposition's right to campaign. The Supreme Electoral Council, in addition, filed misdemeanor charges against the demonstrators in each of these incidents. It is worth noting that such a level of disruption occurred in five instances out of some 250 rallies during the campaign period; that is, it did not constitute a pattern of activity, but was, rather, the exception.

In sum, the Americas Watch report found that "opposition voices could be heard and important issues could be discussed. In that respect, the election period represented an advance for freedom of expression in Nicaragua." It also stated that "Further advances are needed[2]."

While the Americas Watch's own investigations were limited to matters of speech and assembly, other responsible organizations endeavored to monitor the electoral process as such; their findings are relevant to the Administration's claims, and often contradict them outright. The Latin American Studies Association (LASA)[3] delegation of observers reported, for example:

> "The record shows that both before and during the campaign, the Sandinistas made major concessions to opposition forces on nearly all points of contention. The national voter registration effort was remarkably successful, considering that it was conducted under wartime conditions. The Nicaraguan elections of 1984 provided a broad array of protections to assure fair access, procedural honesty and accurate vote count. ... The vote was truly a secret ballot, and was generally perceived as such by voters[4]."

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[1] The elections were contested by three parties to the right of the Sandinistas and three parties to the left of them — not, as the Administration has repeatedly charged, only by leftist elements supportive of the FSLN.

[2] "Freedom of Expression and Assembly in Nicaragua during the Election Period", *op. cit.*, p. 13.

[3] LASA is the principal organization of University Professors and other scholars in the United States engaged in Latin American studies.

[4] Summary of Findings, "The Electoral Process in Nicaragua: Domestic and International Influences", Latin American Studies Association, November 19, 1984.

The LASA report noted that the FSLN "took substantial advantage of its incumbent position and, in some ways, abused it"[1]. On the other hand, it characterized the nature and extent of the abuse as comparable to that committed by incumbent parties elsewhere, including the United States. It concluded that the "unprecedented relaxation of political controls" surrounding the elections and the dialogue begun with the opposition, were "developments [which] augur well for the future of political pluralism in Nicaragua"[1].

The Parliamentary Human Rights Group, a multi-party British organization that includes more than a hundred members of both Houses of Parliament and that has extensive experience in monitoring elections, reached similar conclusions. Its report noted that the Nicaraguan government provided funds and free media time to opposition candidates — noting that British parties receive no such help from their government. Thirty minutes a day of prime television time were given over to political party broadcasts, as well as 45 minutes a day on radio. (The State Department's *Country Report* for 1984 mis-states this as 30 minutes and 45 minutes a *week*, respectively, thus giving the false impression that the access to media was severely limited, and does not clarify that the time was given free, thus implying that this was the total media time available to the opposition. In fact, additional time could be purchased.)

As to the Sandinistas' use or abuse of their incumbency, the PHRG concluded:

> "The advantages which the Sandinistas enjoyed as the incumbent party and as a ruling revolutionary movement cannot be disentangled from their genuine popularity . . . [T]he guarantees provided by the electoral law and the law of political parties, and the independence of the Supreme Electoral Commission and the FSLN's desire to consolidate a pluralist political system, of which periodic elections are a part, were sufficient for a genuine election[2]."

By the same token, while the *Country Report* for 1984 stated that "the Nicaraguan people were denied a broad range of opposition parties for whom to vote"[3], a report by the Washington Office on Latin America and the International Human Rights Law Group (the latter being an organization that has received USAID funds precisely to monitor elections) found: "The range of parties participating in the electoral process provided voters with meaningful choices," and that "parties were for the most part able to communicate their messages to voters, despite a few unfortunate incidents of press censorship[4]."

It is perhaps instructive to compare the Nicaraguan elections — and the Reagan Administration's attitude toward them — with the elections in Uruguay, which also took place in November 1984. Hailed by the Administration as a triumphant return to democracy, the Uruguayan elections had repressive features absent in Nicaragua: the most popular presidential candidate was in prison; another popular presidential candidate remained proscribed from political activity; at one major rally, thousands of Blanco Party members were threatened by police with water cannons. That election, set alongside Uruguay's strong democratic tradition, represented a poor substitute for the openness to which Uruguayans had been accustomed.

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[1] Summary of Findings, "The Electoral Process in Nicaragua: Domestic and International Influences", Latin American Studies Association, November 19, 1984.

[2] Pp. 20-21.

[3] P. 622.

[4] "A Political Opening in Nicaragua: Report on the Nicaraguan Elections of November 4, 1984", International Human Rights Law Group and Washington Office on Latin America, December 11, 1984, p. 51.

By contrast, the Nicaraguan elections, though problematic, must be seen as an advance over past experience. Indeed, as the PHRG report points out, this was the first Nicaraguan election to take place without either an occupying United States military force or the controls of the Somozas, and with universal adult suffrage. In comparison with the Salvadoran elections in 1982 and 1984, the Nicaraguan voting procedures and overall atmosphere were free of fear, free of corruption. Moreover, the Nicaraguan elections took place in wartime. It is therefore doubly significant that, in the words of one Latin American observer, "the ambiance was one of serenity".[1]

F. Refugees as an index of repression

> "But as the refugees come flooding out of Nicaragua, it becomes harder and harder not to hear their cries of anguish, not to see the suffering of their shattered lives." (President Reagan, June 6, 1985.[2])

Administration spokespersons have argued that, given Nicaraguan government repressiveness and unpopularity, a United States failure to aid the rebels would demoralize the opposition and in the words of President Reagan would create "a tidal wave of refugees — and this time they'll be 'feet people' and not boat people — swarming into our country seeking a safe haven from the communist repression to our south".[3] One official told the *Washington Post* this past February that if Congress refused to send military aid to the *contras*, "whole villages in Nicaragua would pick up and move across the border" into Costa Rica and Honduras. He added: "A lot of people would feel very scared, very exposed. It would be a massive refugee problem . . . .".[4] This official offered numbers to illustrate his "feet-people" scenarios — an estimate of 150,000, which was also the number he used for *contra* combatants. (It is worth noting that the figure 150,000 for *contra* fighters is ten times that normally used by the Administration, and 50 times the number normally estimated as actually in the field at any moment. It is unclear where the estimate for future refugees comes from, but to the extent that it is derived from the false number of fighters, it is highly misleading.)

The speciousness of this argument is perhaps best illustrated by figures from the United States Census Bureau, which has traced Nicaraguan refugee movement since 1978. As the Census Bureau chart reprinted on the next page indicates, some 120,000 left Nicaragua in 1978 and the first half of 1979 during the insurrection against Somoza; an equivalent number returned to Nicaragua after the Sandinista victory; in 1982, during the period of mistreatment of the Miskitos and other early counter-insurgency measures, the flow of refugees reached a total of some 30,000; since 1982, refugee numbers have been smaller. On balance, since the Sandinistas came to power, despite the military conflict and the hardships resulting from it — deaths, forced relocations, economic shortages and

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[1] Francisco Pena Gomez, head of the ruling PRD party of the Dominican Republic, quoted in Washington Office on Latin America, "The Nicaraguan Elections and the Administration's Request for Aid to the *Contras*", January 10, 1985, p. 1.

[2] "Remarks of the President to Fundraising Luncheon for Senator Jeremiah Denton, Birmingham, Alabama, June 6, 1985.

[3] "A Latin Axis Could Take Central America, Reagan says", *Washington Post*, June 21, 1983.

[4] "Lack of Funds to Latin Rebels Linked to Possible Exodus", *Washington Post*, February 16, 1985.

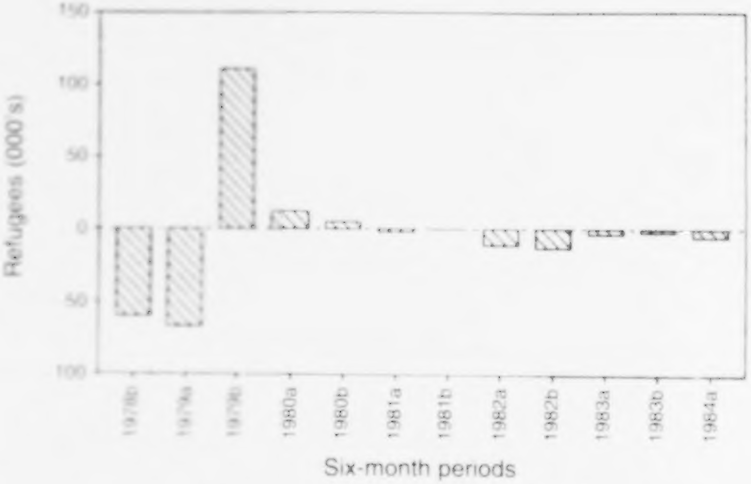

Fig. 2. Refugee Flows from Nicaragua: 1978 to 1984

an unpopular draft ... Nicaragua has absorbed more former refugees than it has created new ones.

(The chart above is reproduced from "Central American Refugee Flows: 1978 to 1984", a March 1985 paper by Linda S. Peterson, United States Bureau of the Census. It was submitted as testimony on behalf of the Bureau of the Census on June 27, 1985, before the Census and Population Subcommittee of the Committee on Post Office and Civil Service, United States House of Representatives. The bars to the left of the line marked "0" represent net refugee outflow from Nicaragua; the bars to the right of the line marked "0" represent net refugee return to Nicaragua.)

II. THE *CONTRAS'* RECORD

> "Contrary to propaganda, the opponents of the Sandinistas are not die-hard supporters of the previous Somoza regime. In fact, many are anti-Somoza heroes ... Now they have been denied any part in the new government because they truly wanted democracy and still do." (President Reagan, Address to Joint Session of Congress, April 27, 1983.)

> "I love killing; I have been killing for the past seven years. There's nothing I like better. If I could, I'd kill several people a day." (Chief of Misura's Military Operations, to a United States journalist, August 1984[1].)

When referring to the insurgents who are fighting the Nicaraguan government, the Reagan Administration and its suporters have committed such rhetorical excesses that they may have hurt their own cause.

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[1] Remarks made to Jon Lee Anderson, associate of Jack Anderson, and quoted in Jack Anderson, "CIA Joins with Extremists in Nicaraguan War", *Washington Post*, September 30, 1984.

The President himself has called the *contras* "freedom fighters", "our brothers" and "the moral equal of our Founding Fathers". The State Department has issued several papers purporting to show that the "Nicaraguan democratic resistance" consists of a wide spectrum of respectable democratic forces and individuals. According to Secretary Shultz in a February 1985 speech:

> "The new fighters for freedom include peasants and farmers, shopkeepers and vendors, teachers and professionals. What unites them . . . is disillusionment with Sandinista militarism, corruption and fanaticism[1]."

These efforts are no more than self-conscious attempts at evading two burning matters of fact: that the United States-sponsored insurgency engages in a deliberate and systematic pattern of violations of the most fundamental international standards guiding the conduct of armed conflict; and, that despite the support from some prominent anti-Somocista leaders, major responsibility for military operations of the *contras* continues to rest in the hands of former members of Somoza's National Guard.

Both facts are well known to the Administration, since the CIA has been intimately involved with the day-to-day operations of the insurgents, pursuant to a Presidential directive, at least since 1981. In response to the issue of the composition of these forces, the Administration has not pressed for disengagement of the Somocista leaders, but instead has hailed the creation of a token and ineffective civilian leadership, labeled as the "political military command", consisting of more acceptable non-Somocista figures.

Similarly, the exposure of persistent human rights violations by the *contras* has led the Administration not to pressure *contra* leaders to enforce international codes of conduct, but to drown United States public opinion with praise for the "freedom fighters", and to attempt to discredit all reports of their violations as inspired by communist or Sandinista propaganda. Alternatively, critics of United States policy and practice with regard to the *contras* have been dismissed as merely ignorant and incompetent. In response to British and French official criticism of the CIA's mining of Nicaraguan harbors, then-United Nations Ambassador Jeane Kirkpatrick stated: "The Europeans have never been very expert in Latin America. That they shouldn't share our perceptions doesn't bother me . . .[2]"

Worse, in 1983 the CIA hired a contract worker to write a handbook for the *contras* that was published and distributed to combatants under the title of *Operaciones Psicologicas en la Guerra de Guerrillas* ("Psychological Operations in Guerrilla Warfare")[3]. This instruction manual actually solicits the commission of crimes and other violations of accepted norms of warfare. When the manual became known to the American public, shortly before the November 6, 1984, Presidential elections, the Administration promised a thorough investigation. After the landslide Reagan victory, the CIA announced that it would only "reprimand" six unnamed staff members. In statements to the press and Congress, CIA Director William Casey and President Reagan himself tried to downplay the manual's importance. The President said it was "much ado about nothing". According to this view, the most offensive of its instructions, on how the *contras* should "neutralize enemies", actually had a benign interpretation: Reagan said that "to neutralize" meant to tell a local authority that "you are not in charge any more". In fact, "neutralizing" is a CIA term of art; it means murder. Any abiguities in meaning, moreover, are easily resolved by context: the reference in the manual is to "selective use of violence" to neutralize opponents.

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[1] "America and the Struggle for Freedom", *op. cit.*, p. 10.

[2] US Envoy Dismisses Allies' Criticism", *Washington Post*.

[3] An English translation has been published in the United States by Vintage Books, New York, 1985, with essays by Joanne Omang and Aryeh Neier. See this book for references to the CIA Manual and comments about it that follow.

When public outrage about the CIA manual was at its peak, unnamed Administration spokespersons, in a feat of convoluted reasoning, told the press that FDN violations of human rights had made it necessary to draft a set of standards to guide *contra* actions. An ardent suppporter of the Administration, Senator Malcolm Wallop (Republican from Wyoming and member of the Senate Select Committee on Intelligence) said: "Taken as a whole, the manual is a code of conduct of which the United States need not be ashamed[1]." If a code of conduct were needed, the Administration should have insisted on respect for the limitations imposed by Common Article 3 of the Geneva Conventions of 1949. This is the minimum standard applicable to armed conflicts not of an international nature, and it is legally binding on the United States because of this country's accession to those treaties. The CIA manual instructs the *contras* to violate Common Article 3 in several respects. Moreover, it instructs them to violate United States domestic law as well, notably the Boland Amendment which was in effect until 1985, prohibiting the use of United States funds for the overthrow of the Nicaraguan government, and the Presidental directive of December 4, 1981, prohibiting United States involvement in assassinations.

All of this was taking place at the same time as the Administration was embarked on a crusade against international terrorism. Secretary of State Shultz and other high-ranking officials have made important policy pronouncements advocating tough measures to counter the actions or threats of action by terrorists throughout the world. (It appears that the measures proposed included permitting United States agents and allies to fight terror with terror, as in the March 1985 incident in which a Lebanese group supported by the CIA but reportedly acting on its own, killed some 80 civilians in an unsuccessful bombing attempt to kill a Muslim leader suspected of being linked to the attack on United States marines in Beirut.) In Congressional hearings about his proposals, Shultz argued that the Nicaraguan *contras* are not terrorists, making it clear that the Administration's condemnation of terrorism does not include those who take up arms to overthrow tyranny in their own countries. This is a troubling distinction, not only because it hinges on one's own particular definition of tyranny, but more importantly because, according to this reasoning, terrorism is defined by the terrorist's professed goals and not by the means he employs. In that sense, any action is permissible if it is intended to overthrow, destabilize or otherwise harass an enemy of the United States (enemy status as defined by the United States), but conversely, similar actions, including murder, indiscriminate attacks against civilians and outrages against personal dignity constitute terrorism only when performed by the enemies of democracy (also as defined by the United States).

Dr. Kirkpatrick's emphasis on international law as a matter of "perceptions"; Secretary Shultz's delicate adjustments in the definition of terrorism; the President's notions of brotherhood — such casual revision of reality is backed up by official State Department publications such as the booklet *Misconceptions About United States Policy Toward Nicaragua*. In seeking to portray the *contras* as a responsible force, this booklet takes on the "misconception" that "the

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[1] Quoted in essay by Joanne Omang, Vintage edition of "Psychological Operations" Handbook, *op. cit.*, p. 30.

United States is supporting former Somocistas who are spreading terror in Nicaragua"[1]. Its argument is a mixture of falsehood and blameshifting.

> "[T]he Nicaraguan armed opposition has attacked very few economic targets and has sought to avoid civilian casualties. Tragically, the Sandinistas have adopted a practice of mixing civilian government workers with troops in truck convoys, and civilians have been killed when these convoys are attacked[2]."

The first sentence is completely false: not only do the *contras* attack economic targets — and indeed, the FDN has confirmed this as its priority — but an already vast body of testimony indicates the *contras* routinely, and as a matter of policy, murder civilians. The second sentence places blame on the victims. In fact the *contras* have frequently attacked medical, relief agency and other obviously civilian vehicles. The booklet continues: "It is more likely that the Sandinistas through use of heavy weapons ... have inflicted far more civilian casualties than have their opponents[2]."

The discerning reader will note the word "likely", which conveniently avoids the issue of demonstrated facts. There is no concrete evidence that the Sandinistas have inflicted civilian casualties through use of heavy weapons, such as artillery or gunships. There is, however, evidence that the *contras* target civilians and have killed many. The Administration is engaging here in a serious, considered effort to ignore the *contras*' actual conduct of the war and to discredit reports of human rights violations for which they have been responsible[3].

The President himself responded to reports of human rights abuses by the *contras* by asserting:

> "The truth is, there are atrocities going on in Nicaragua. But they are largely the work of the institutionalized cruelty of the Sandinista government — cruelty that is the natural expression of a communist government, a cruelty that flows naturally from the heart of totalitarianism[4]."

The Americas Watch has published two reports that include detailed accounts of *contra* violations of humanitarian law. What follows is a summary of our findings. Even so brief a treatment underscores the extent to which this Administration has departed from a concern for human rights in sponsoring the *contras*.

A. Taking of prisoners

The most important of the *contra* forces has almost never taken prisoners in combat[1]. In response to inquiries about this, leaders of the Fuerza Democratica Nicaraguense claim that when enemy soldiers surrender or are caught wounded, FDN troops disarm them, invite them to join the FDN, and if they refuse, they are released. FDN combatants, however, have repeatedly admitted to foreign correspondents that their practice is to torture the enemy soldier who has been placed *hors de combat* in order to obtain information, and eventually to execute him[2]. Similar public admissions have been made by chiefs and soldiers of Misura, one of the two Miskito-based armed organizations, and the one that is closely allied with the FDN. As columnist Jack Anderson reported last September:

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[1] State Department booklet, March 1985, p. 12.

[2] *Ibid.*, p. 13.

[3] On June 11, 1985, on the eve of the vote in the House of Representatives to reverse its previous decision and to provide $27 million in aid to the *contras*, President Reagan sent a letter to Congressman Robert Michel, Republican leader in the House, which was circulated to the entire House. It contained the President's first acknowledgment that the *contras* may have committed abuses. The President wrote that: "I take very seriously your concern about human rights. The United States condemns, in the strongest possible terms, atrocities by either side. We are committed to helping the democratic resistance in applying strict rules regarding proper treatment of prisoners and the civilian population. And we urge their leaders to investigate allegations of past human rights abuses and take appropriate actions to prevent future abuses." Shortly thereafter, the political spokesmen for the *contras* announced that they would investigate allegations of abuses. No information on procedures was disclosed.

[4] "Reagan Campaigns for Latin Package", *New York Times*, April 16, 1985.

> "My associate was told by a Misura Indian commander that his units routinely execute prisoners — after first torturing them to obtain information. He explained in grisly detail how the hapless prisoners of war were finished off and said: 'For the killing of prisoners we use our youngest boys, 14 and 15 years old. They are the best for this because they are too young to have a conscience'[3]."

The other *contra* organizations, Misurasata and the Alianza Revolucionaria Democratica (ARDE), have been known to take prisoners and to release them through international mediation. There have been several cases of these exchanges, without reports of mistreatment. In the most recent case, however, prisoners released in Costa Rica by the ARDE faction led by Eden Pastora, complained that they had been tortured while in custody of their captors[4].

B. Selective attacks on civilians

Throughout the conflict, the *contras* have engaged in a systematic and deliberate practice of targetting individuals they identify with the Sandinista power structure, either because they hold political appointments in certain areas, or they work for government agencies, or they are outspoken in their support for the Nicaraguan government and active in the different political organizations controlled by the Frente Sandinista de Liberacion Nacional. (Such targetting was recommended by the CIA manual for the *contras*.) When confronted with allegations of this practice, Colonel Enrique Bermudez, the military commander of the FDN, has told foreign correspondents that his combatants target only members of the armed forces and of State security. He also, however, has said that all active Sandinista supporters and all government workers are members of the security apparatus of the government. Steadman Fagoth, leader of Misura, admitted in the presence of international visitors that he had drawn up a list of 12 persons to be executed, and that 6 of them had already been executed[5]. Testimonies gathered by Americas Watch and by other organizations describe a great number of cases in which unarmed civilians have been dragged from their homes, physically abused and summarily executed, often in front of many witnesses, by contingents of the FDN or Misura. At other times, public transportation vehicles have been stopped by the *contras* and individuals riding in them have been killed after the *contras* identified them.

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[1] Americas Watch is aware of only one case in which the FDN has offered to turn prisoners over to an international agency. For the first time ever in March 1985, the FDN publicly announced that it was willing to return captured Nicaraguan government soldiers through the International Committee of the Red Cross. This announcement came a few days after Americas Watch published a report charging the FDN with not taking prisoners. International correspondents were allowed to interview the prisoners at the FDN camp in Las Vegas, Honduras. In the course of the conversation, the prisoners said they had decided to join the FDN.

[2] See, "First Supplement: Violations of the Laws of War by Both Sides in Nicaragua 1981-1985", Americas Watch, June 1985, pp. 1-4.

[3] "CIA Joins with Extremists in Nicaragua War", by Jack Anderson, *Washington Post*, Sunday, September 30, 1984.

[4] FBIS/2A, 2 May 1985, p. P-2.

[5] "Anti-Sandinista Indians Reported Quitting Battle", by James LeMoyne, *New York Times*, April 19, 1985. The statement was made to a group of Senate staff.

C. *Indiscriminate attacks*

The FDN operates in the most populated of Nicaragua's rural areas, whereas Misura and Misurasata operate exclusively in the Atlantic Coast region, and both factions of ARDE conduct their activities in the south, close to the border with Costa Rica, an area that was sparsely populated to begin with, and is now almost totally without population due to both spontaneous and forced displacement caused by the war. Most accounts of indiscriminate attacks against the civilian population relate to incidents in the mountainous north. Between November 1984 and March 1985, the main objective of the FDN was to disrupt the harvest of coffee and other crops, in order to deny the Nicaraguan government the income derived from their export. Under the laws of war, this strategy is legitimate; military targets are defined as anything that can contribute, even in indirect ways, to the enemy's war effort. The only economic objectives that are prohibited are those likely to cause catastrophic damage to the civilian population. Even if this is a legitimate tactic, it does not follow that any means can be employed to attain those objectives.

The FDN routinely attacks farms, whether owned by private farmers, cooperatives or the State. Many of these farms are defended by workers organized in self-defense militias. Their presence also makes the place a legitimate military target, but in any event, the attacking forces are always bound by their duty to minimize harm to the civilian population as much as possible. FDN contingents have often failed to comply with this obligation. They direct rocket and mortar fire against these farms, and once they subdue the armed resistance, they burn such structures as schools, houses and day care centers that play no role in the productive process. On many occasions, they have directed their fire against civilians even after all resistance was over, so the ensuing civilian casualties could not possibly be considered collateral to an otherwise legitimate attack. Misura and Misurasata are active in areas where the population is generally sympathetic to them, and there have been few reports of indiscriminate attacks against civilians. On April 14, 1984, however, Misura attacked the settlement of Sumubila, one of four locations known collectively as Tasba Pri, where the Miskitos from the Rio Coco border area were relocated after their forced evacuation in early 1982. The Misura contingent fired at random at houses, killing at least six civilians, then set fire to a health center, an ambulance and two other buildings, and kidnapped more than 30 persons.

There have been few reports of indiscriminate attacks by ARDE; as stated above, its forces operate in a territory that is largely unpopulated. Still, there have been raids by ARDE against farm cooperatives near the border with Costa Rica.

D. *Torture; outrages against personal dignity*

There have been many cases of torture and cruel and degrading treatment against prisoners taken by the *contras* both of enemy soldiers and among civilians. The bodies of persons kidnapped by the insurgents have been found showing marks of torture. There have been many cases of women abducted and raped by *contras*, including recent cases in which the women were abused in the presence of members of their families. As stated earlier, FDN and Misura soldiers readily admit that it is standard practice to torture prisoners, whether military or civilian, in order to obtain information about the enemy. The CIA manual instructs the *contras* to "shame, ridicule and humiliate the 'personal symbols' of the government of repression in the presence of the people and foster popular participation through guerrillas within the multitude, shouting slogans and jeers".

E. Neutrality of medical and relief personnel

Vehicles of the International Committee of the Red Cross (ICRC) have been able to penetrate areas of conflict in the Atlantic Coast region and in the north and south to provide relief assistance to displaced and isolated persons, without being disturbed. Other clearly marked vehicles belonging to the Ministry of Welfare or to private relief agencies have on numerous occasions been attacked or forced to return to the cities. Physicians and health care personnel have been murdered by the insurgents, including two Western European doctors rendering services to peasants in the Jinotega area in 1983. A Nicaraguan doctor and another health professional were kidnapped in the course of the attack on Sumubila mentioned above; they managed to escape from their captors two weeks later. In January 1985, a Nicaraguan doctor, a dentistry student and other volunteers serving the Rama Indian community in the island of Rama Quay were kidnapped by a Misurasata contingent. In turn, ARDE forces that respond to Eden Pastora's command took them over by force from Misurasata a few weeks later. In late April, Pastora turned the prisoners over to Costa Rican authorities at the border, at which time two of them said they wanted to join ARDE and three others complained that they had been tortured.

F. Kidnapping and harassment of refugees

A favored tactic of all *contra* forces is to force the civilian population to march with them into Honduras and Costa Rica, or to their camps in Nicaraguan territory. There is no question that many of these people go with the *contras* of their own free will, or because they feel they do not have any choice, or because they fear they will be seen by the government as *contra* sympathizers after the insurgents have visited them. But there is also abundant testimony to the effect that many persons are physically forced to march with the *contras*, to help carry equipment, and eventually to be persuaded to join the insurgency, or to join members of their families who have already joined. Americas Watch has interviewed many persons who testify that they were forced to go with their captors, and later escaped or found ways of returning to Nicaragua from the neighboring countries.

A related phenomenon is the harassment and manipulation of the refugee population in Honduras. The FDN and Misura maintain strong presence in refugee camps, even those run by neutral international organizations. Misura has been particularly cruel in using threats and intimidation, as well as manipulation of relief aid, to force young Miskitos and Sumus to join Misura and to force their relatives to move closer to the border where they can provide logistical support to the war effort. The United States Congress has contributed to this manipulation of refugees by passing an amendment proposed by Representative Robert Livingston, to provide $7.5 million in aid to be distributed only by conservative private organizations allied to Misura. It remains to be seen whether the funds most recently voted by Congress to support *contras* will be used for similar purposes.

In sum, we find that the *contras* are pursuing their military campaign by systematically violating the basic rights of Nicaraguan civilians. The Reagan Administration's financial, moral and political support for the *contras* flies in the face of United States law as well as the Administration's stated commitment to human rights. It is a policy which achieves coherence only if the facts about *contra* practices are obscured and the Nicaraguan government is portrayed as the more serious human rights violator. Our investigations indicate that such a portrayal is not justified, and that the United States policy therefore is fundamentally inimical to human rights.

III. REWRITING HISTORY

> "The truth is Somoza was bad, but so many of the people of Nicaragua know the Sandinistas are infinitely worse." (President Reagan, April 15, 1985[1].)

> "And finally there is the latest partner of Iran, Libya, North Korea and Cuba in a campaign of international terror — the communist régime in Nicaragua . . . [They are] a core group of radical and totalitarian governments, a new international version of Murder, Inc." (President Reagan, July 8, 1985[2].)

It is beyond the scope of this report to try to recapitulate the abuses of human rights committed by the Somozas during the 45 years that they ruled Nicaragua. On the other hand, it should not be forgotten that their régime was extraordinarily corrupt and that they ruthlessly attempted to eliminate their political opponents through torture and assassination. More than 40,000 Nicaraguans were killed in 1978 and 1979 during the civil war that led to the overthrow of the Somozas. Few were combatants. The great majority were killed in indiscriminate bombings and artillery barrages against the civilian population by Somoza's National Guard, or they were young people summarily executed by the National Guard because it was thought that they were sympathizers of the Sandinistas.

The *contras* presently number many more combatants than the Sandinistas ever reached when they were fighting against Somoza. The failure of the *contras* to succeed, however, has been due to their inability to inspire a popular insurrection such as the one that overthrew Anastasio Somoza Debayle. During the four years that the current conflict has been underway, the death toll has been about 10,000. As in the 1978-1979 civil war, many of those killed from 1981-1985 have been civilian non-combatants, though not nearly so high a proportion as during that earlier war. During the current civil war, the great majority of the civilian non-combatants who have died were killed by the *contras*.

As to the President's accusation that the Nicaraguan government is engaged in a "campaign of international terrorism", the evidence for this is lacking. To the best of our knowledge, Nicaragua has not been involved in any airplane hijacking, or kidnapping, or seizure of hostages. Nor, so far as we know, has Nicaragua assassinated its political opponents abroad, as for example the government of President Pinochet of Chile has done (including the assassination of Orlando Letelier and Ronni Moffitt in Washington, DC), though Chile was not included in the President's list of outlaw nations. Prior to the President's speech, the Department of State did not include Nicaragua on the list of countries that are involved in international terrorism.

On the other hand, the United States has engaged in terrorism against Nicaraguans. Aside from organizing, training, financing, equipping and championing the *contras* who have practiced terror. CIA personnel directly participated in mining the harbors of Nicaragua. Also, the CIA published and disseminated a manual that instructs the *contras* in terrorist techniques under such chapter headings as "Selective Use of Violence for Propagandistic Effects", "Armed Propaganda Teams", and "Implicit and Explicit Terror".

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[1] Excerpts from President's Address, *New York Times*, April 16, 1985.

[2] Excerpts from the President's Address Accusing Nations of "Acts of War", *New York Times*, July 9, 1985.

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1982-1985

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(3) Guatemala: A Nation of Prisoners — January 1984, 260 pp.
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Supplemental Annex F

COMMUNICATION DATED 17 JULY 1985 DELIVERED TO THE GOVERNMENT OF NICARAGUA BY THE AMBASSADOR OF THE UNITED STATES IN MANAGUA, AND NOTE VERBALE DATED 18 JULY 1985 BY THE GOVERNMENT OF NICARAGUA IN REPLY

LETTER DATED 22 JULY 1985 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to write to you in order to transmit a copy of the communication dated 17 July 1985 which was delivered to the Government of Nicaragua by Mr. Harry Bergold, Ambassador of the United States of America in Managua (see Annex I). I am also attaching a copy of the Note Verbale dated 18 July 1985 by which the Government of Nicaragua replied to the communication (see Annex II).

The serious accusations and threats in the communication of the United States Embassy in Managua are clear evidence of the State terrorism practised by the current United States Administration against Nicaragua and the decision of the United States Government to strike and intervene militarily against our country on the basis of pretexts as absurd and outlandish as those to be found in the aforementioned official communication. In the context of other acts of aggression and steps to block the regional peace initiatives, these new and unfounded accusations and threats of the United States Government against my country amount to an extremely grave situation and a serious endangerment of international peace and security.

I should be grateful if you would arrange for the present note and its annexes to be circulated as a document of the thirty-ninth session of the General Assembly, under agenda item 25, and of the Security Council.

(*Signed*) Julio ICAZA GALLARD,
Ambassador,
Chargé d'affaires a.i.

Annex I

Communication Dated 17 July 1985 Delivered to the Government of Nicaragua by the Ambassador of the United States of America in Managua

Citizens of the United States and of our friends and allies increasingly have been the targets of international terrorist activity. The patience of the United States Government and of the American people has grown short.

A recurrence of any incident such as the brutal murder of six United States citizens in El Salvador on 19 June 1985, will have serious repercussions. In the case of El Salvador, we and the Government of El Salvador have reacted strongly against the PRTC. We are well aware of Nicaraguan Government support for and influence with the PRTC and other elements of the FMLN. The Nicaraguan Government should use its influence to discourage attacks against United States personnel, personnel who are not, as they know, involved in combat.

We now have indications that preparations are under way to introduce a program of terrorist attacks against United States personnel in Honduras.

We are aware that the Government of Nicaragua supports those involved in these preparations and we believe that the Government of Nicaragua may be directly involved.

We consider it of utmost importance that the Government of Nicaragua clearly and fully understand that any Nicaraguan-supported terrorism attacks against United States personnel in Honduras would be viewed as the direct responsibility of the Government of Nicaragua, and that the United States should be expected to react accordingly.

It should be understood also that while this warning is addressed to possible acts of terrorism against United States citizens in Honduras because of specific available intelligence, United States reaction to terrorist acts in other countries of Central America, or elsewhere, will be based upon the same principles. A repetition anywhere in Central America of the 19 June murders of United States citizens in El Salvador will have serious consequences for the perpetrators and for those who assist them.

Annex 11

Note Verbale dated 18 July 1985 by which the Government of Nicaragua Replied to the Communication Dated 17 July 1985 of the Embassy of the United States of America in Managua

The Ministry of Foreign Affairs of the Republic of Nicaragua is writing to the Government of the United States of America in order to state the following:

Yesterday, 17 July, in the afternoon, the Ambassador of the United States of America to Nicaragua, Mr. Harry Bergold, delivered a communication to the Government of Nicaragua containing very serious threats against our country.

Nicaragua categorically rejects the content and form of that communication, which contains false accusations and intolerable threats and represents a breach of the practice and law prevailing in relations between States.

Nicaragua wishes first to confirm its strong and total condemnation of all forms of terrorism, particularly State terrorism of the kind which the United States Administration sponsors and finances against our country.

This policy of State terrorism has claimed a total of 12,146 victims in Nicaragua, including dead, injured and abducted persons, and has left more than 7,500 children orphans. It may be recalled that the methods and actions employed in this policy of State terrorism against Nicaragua include:

(*a*) the mining of Nicaraguan ports;

(*b*) the attack against fuel storage facilities at the port of Corinto, which rendered necessary the general evacuation of the population of that port;

(*c*) the systematic murder and abduction of peasants, elderly persons, women and children by mercenary bands financed by the United States Government;

(*d*) the criminal assault on a passenger aircraft belonging to Aerolíneas Nicaragüenses in Mexico;

(*e*) the explosion in the baggage claim area of Sandino Airport, which caused the death of four airport workers;

(*f*) the manual entitled *Psychological Operations in Guerrilla Warfare* produced by the Central Intelligence Agency, which is a guide and an apology for terrorism.

It should be stated in this connection that communications such as the one transmitted yesterday by Ambassador Bergold to the Government of Nicaragua are in themselves evidence of political State terrorism.

The Government of Nicaragua is not and never has been involved in any type of action contrary to the norms and principles of international law. The Sandinist Front itself, in its long struggle against dictatorship, never resorted to terrorist methods.

Nicaragua rejects all responsibility for the events which took place on 19 June at San Salvador and will not accept responsibility in any similar situation that may arise in El Salvador or another country. It neither perpetrates nor encourages that type of action.

The absurd attempt by the United States to hold Nicaragua responsible for future acts of violence and terror that either United States diplomatic personnel or citizens may endure in Central America or elsewhere can only be understood in the context of the United States decision to fabricate the necessary pretext, as in the case of the Gulf of Tonkin, as a means of creating conditions to justify direct military aggression against the Nicaraguan people. No other interpretation can be given to the illogical and illegal threat to take reprisals against Nicaragua for possible actions whose nature and origin will be determined by the United States Government itself.

This new threat is made in the context of previous acts of aggression against Nicaragua, such as the trade embargo, the approval of new funds for mercenary forces and the adoption of the Foley amendment, which embodies the necessary pretext for direct aggression against Nicaragua.

As the threats to the security of United States citizens in other countries of the region are the result of the United States Government's policies towards the Central American crisis, it would behove that Government to take a responsible attitude by not stepping up its dangerous threats against a small nation like Nicaragua and, instead, sincerely engaging in the current peace efforts, in particular by ending the boycott of the Contadora negotiating process and agreeing to resume the Manzanillo talks, which were unilaterally suspended in January of this year.

Should the policy of threats of further and more serious acts of aggression against the region, and against Nicaragua in particular, persist, this could only lead to a worsening of the situation and heightened security risks for all the parties involved.

Moreover, Nicaragua considers that if the United States Administration has convincing proof of the alleged Nicaraguan support to terrorist organizations, then the International Court of Justice has full competence to hear those accusations. Nicaragua calls on the United States to submit its complaints to the supreme world tribunal either within the framework of the case currently before the Court, or separately in a new application to the Court to be filed by the United States Government.

The Ministry of Foreign Affairs reiterates to the Government of the United States the assurances of its highest consideration.

Supplemental Annex G

AFFIDAVIT OF EDGAR CHAMORRO

City of Washington
District of Columbia

I, Edgar Chamorro, being first duly sworn, depose and say the following:

1. I am a citizen of Nicaragua. I was born in Granada, Nicaragua, on July 23, 1931. I presently reside in the United States of America with my wife and two children, at 640 Allendale Road, Key Biscayne, Florida. I have applied to the Government of the United States for permanent resident status so that I can live permanently in the United States. I am currently awaiting final action on my application. I have been advised by my attorneys that I should not travel outside the United States until my application for permanent resident status is formally approved; travel outside the United States at the present time, according to my attorneys, could prejudice my application and result in my being permanently excluded from the United States. Since I am unable to appear in person before the International Court of Justice, I am submitting my testimony to the Court in written form.

2. I will begin by describing my background. I was raised in Nicaragua. At the age of 19, I joined the Jesuit order of the Roman Catholic Church, and subsequently became a Roman Catholic priest. I studied at the following Jesuit-affiliated institutions: Catholic University in Quito, Ecuador; St. Louis University in St. Louis, Missouri; and Marquette University in Milwaukee, Wisconsin. I later served as full professor and Dean of the School of Humanities at the University of Central America, a Jesuit-affiliated institution in Managua, Nicaragua. I left the priesthood in 1969, but continued my career in education. In 1972, I received a Master's Degree in Education from Harvard University, Cambridge, Massachusetts.

3. I returned to live in Managua, and went into private business. I worked for an advertising agency called Creative Publicity. I developed an expertise in advertising, public relations and mass communications. In 1977, I was appointed by the Nicaraguan government to be a member of the Mission of Nicaragua to the United Nations in New York. I served in that capacity for one year, after which I returned to Nicaragua. In June 1979, I took up residence with my family in Miami, Florida. At that time, there was a full-fledged insurrection against the government, and the Guardia Nacional ("National Guard"), the Nicaraguan armed forces loyal to the President, General Anastasio Somoza, were bombing residential neighborhoods and shooting innocent civilians in the streets. I did not wish to remain in Nicaragua under such conditions.

4. On July 19, 1979, the insurrection succeeded in overthrowing the Somoza government and a new government of National Reconstruction was established in its place. The new government was led by the Frente Sandinista de Liberacion Nacional (Sandinista National Liberation Front) or "FSLN", which favored broad social and economic change in Nicaragua. I traveled back to Nicaragua in September 1979 to learn about the new government first-hand, and to decide whether to move back to Nicaragua with my family. Although I, too, favored social and economic changes in Nicaragua, I felt then — and still feel — that the

policies and programs of the FSLN were and are too radical, and that I could not lend my support to a government dominated by that political party. I decided to remain in Miami.

5. Toward the end of 1979 I began to work with a group of Nicaraguan exiles living in Miami who, like me, opposed the policies of the new government. In 1980 we constituted ourselves as the Union Democratica Nicaraguense (Nicaraguan Democratic Union), or "UDN". Our principal activity was to write letters to members of the United States Congress urging them to vote against financial assistance for the Nicaraguan government. We also held political meetings and rallies with other like-minded Nicaraguan exiles in Miami, and we set up regional committees in other cities of the United States where substantial numbers of Nicaraguans were residing. The leader of our organization, with whom I worked closely, was José Francisco Cardenal. Cardenal had served briefly as Vice President of the Council of State, the legislature of the new Nicaraguan government, but had resigned his post and left Nicaragua because of his disagreements with the new government's policies.

6. In 1981, the UDN underwent a transformation. During the first half of the year, Cardenal was contacted by representatives of the United States Central Intelligence Agency, and he began to have frequent meetings with them in Washington and in Miami. He also began to receive monetary payments from these people. He was told that the United States Government was prepared to help us remove the FSLN from power in Nicaragua, but that, as a condition for receiving this help, we had to join forces with the ex-National Guardsmen who had fled to Honduras when the Somoza government fell and had been conducting sporadic raids on Nicaraguan border positions ever since. Cardenal was taken to Honduras by his CIA contacts on several occasions to meet with these Guardsmen. The UDN, including Cardenal, initially opposed any linkage with the Guardsmen. The CIA, and high-ranking United States Government officials, insisted that we merge with the Guardsmen. Lt. General Vernon Walters, then a special assistant to the United States Secretary of State (and formerly Deputy Director of the CIA) met with Cardenal to encourage him to accept the CIA's proposal. We were well aware of the crimes the Guardsmen had committed against the Nicaraguan people while in the service of President Somoza, and we wanted nothing to do with them. However, we recognized that without help from the United States Government we had no chance of removing the Sandinistas from power, so we eventually acceded to the CIA's, and General Walters', insistence that we join forces with the Guardsmen. Some UDN members resigned because they would not associate themselves with the National Guard under any circumstances, but Cardenal and I and others believed the CIA's assurances that we, the civilians, would control the Guardsmen in the new organization that was to be created.

7. At that time, the ex-National Guardsmen were divided into several small bands operating along the Nicaragua-Honduras border. The largest of the bands, headed by Enrique Bermudez, a former Colonel, was called the 15th of September Legion. The bands were poorly armed and equipped, and thoroughly disorganized. They were not an effective military force and represented no more than a minor irritant to the Nicaraguan government. Prior to the UDN's merger with these people, General Walters himself arranged for all of the bands to be incorporated within the 15th of September Legion, and for the military government of Argentina to send several army officers to serve as advisors and trainers. The merger of the UDN with the 15th of September Legion was accomplished in August 1981 at a meeting in Guatemala City, Guatemala, where formal documents were signed. The meeting was arranged and the documents were prepared

by the CIA. The new organization was called the Fuerza Democratica Nicaraguense ("Nicaraguan Democratic Force") or, by its Spanish acronym, FDN. It was to be headed by a political junta, consisting of Cardenal, Aristides Sanchez (a politician loyal to General Somoza and closely associated with Bermudez) and Mariano Mendoza, formerly a labor leader in Nicaragua; the political junta soon established itself in Tegucigalpa, Honduras, taking up residence in a house rented for it by the CIA. Bermudez was assigned to head the military general staff, and it, too, was based in Honduras. The name of the organization, the members of the political junta, and the members of the general staff were all chosen or approved by the CIA.

8. Soon after the merger, the FDN began to receive a substantial and steady flow of financial, military and other assistance from the CIA. Former National Guardsmen who had sought exile in El Salvador, Guatemala and the United States after the fall of the Somoza government were recruited to enlarge the military component of the organization. They were offered regular salaries, the funds for which were supplied by the CIA. Training was provided by Argentinian military officers, two of whom — Colonel Oswaldo Rivero and Colonel Santiago Villejas — I got to know quite well; the Argentinians were also paid by the CIA. A special unit was created for sabotage, especially demolitions; it was trained directly by CIA personnel at Lepaterique, near Tegucigalpa. Arms, ammunition, equipment and food were supplied by the CIA. Our first combat units were sent into Nicaraguan territory in December 1981, principally to conduct hit-and-run raids. The first military successes of the organization came in March 1982, when CIA-trained saboteurs blew up two vital bridges in northern Nicaragua — at Rio Negro and Ocotal.

9. 1982 was a year of transition for the FDN. From a collection of small, disorganized and ineffectual bands of ex-National Guardsmen, the FDN grew into a well-organized, well-armed, well-equipped and well-trained fighting force of approximately 4,000 men capable of inflicting great harm on Nicaragua. This was due entirely to the CIA, which organized, armed, equipped, trained and supplied us. After the initial recruitment of ex-Guardsmen from throughout the region (to serve as officers or commanders of military units), efforts were made to recruit "foot soldiers" for the force from inside Nicaragua. Some Nicaraguans joined the force voluntarily, either because of dissatisfaction with the Nicaraguan government, family ties with leaders of the force, promises of food, clothing, boots and weapons, or a combination of these reasons. Many other members of the force were recruited forcibly. FDN units would arrive at an undefended village, assemble all the residents in the town square and then proceed to kill — in full view of the others — all persons suspected of working for the Nicaraguan government or the FSLN, including police, local militia members, party members, health workers, teachers and farmers from government-sponsored cooperatives. In this atmosphere, it was not difficult to persuade those able-bodied men left alive to return with the FDN units to their base camps in Honduras and enlist in the force. This was, unfortunately, a widespread practice that accounted for many recruits. The FDN received all of its weapons from the CIA. In 1982, the CIA provided FAL rifles to all FDN combatants. These were acquired used from the Honduran army, which found these rifles expendable after the United States Government reequipped the Honduran army with American-made M-16 rifles, thus enabling the CIA to purchase the FALs for the FDN. (Later, in 1983, the CIA acquired AK-47 assault rifles for the FDN.)

Training continued under the direction of Argentinian military officers, although gradually the Argentinians were replaced and CIA personnel performed all military training themselves. By the end of 1982, we were ready to launch our first major military offensive designed to take and hold Nicaraguan territory, which the CIA was urging us to do. Our principal objective was the town of Jalapa, in northern Nicaragua. More than 1,000 of our fighters were involved, and we used light artillery (mortars, supplied by the CIA) in combat for the first time. Although we inflicted casualties on the Sandinistas and caused substantial destruction in Jalapa and other neighboring towns, our offensive was repulsed and we were forced to retreat to Honduras and regroup without having accomplished our objective.

10. My specific job during the first year after the creation of the FDN was to serve as staff person to the political junta. I was based in Miami, where I did political propaganda work, wrote letters, organized rallies, set up committees in various parts of the United States and generally worked at building support for our cause within the United States. During this period Cardenal grew increasingly unhappy over his lack of influence within the FDN. He had frequent conflicts with the CIA personnel who were supervising and directing the FDN's political and military activities and found that he had no control over Bermudez or the other members of the FDN general staff, who answered only to the CIA. Eventually he quit the organization, returned to Miami and entered the insurance business.

11. In November 1982 I was approached by a CIA agent using the name "Steve Davis" and asked to become a member of the "political directorate" of the FDN, which the CIA had decided to create as a substitute for the "political junta". (I am able to refer to "Davis" by name because I know that it is a pseudonym; United States law makes it a criminal offense to reveal the real name of any undercover CIA operative.) I had lunch with "Davis" at a restaurant near my home in Florida. "Davis" told me he was speaking in the name of the President of the United States, who wanted "to get rid of the Sandinistas". "Davis" explained to me that the FDN had a bad image in the United States, and particularly among members of the Congress, because it was perceived as an organization of ex-National Guardsmen. He told me that in order to maintain the support of the Congress for the CIA's activities it was necessary to replace the political junta with a group of prominent Nicaraguan civilians who had no ties with the National Guard or the Somoza government. "Davis" left without asking me to make a commitment. He told me I would be contacted again in the near future.

12. Later that month, "Davis" telephoned me and asked me to have dinner with him in his hotel suite at the Holiday Inn in Miami. When I arrived, "Davis" introduced me to another CIA man, who used the name "Tony Feldman". "Feldman" was introduced as "Davis'" superior from Washington, and he acted as though "Davis" worked for him. "Feldman" told me that the CIA had decided on a seven-member political directorate for the FDN, because any larger group would be unmanageable. He said that I had been selected as one of the seven, and he asked me to accept. He told me that the United States Government was prepared to give its full backing to the FDN so that, by the end of 1983, we would be marching into Managua to take over the Nicaraguan government. I was glad to see that the United States Government was committed enough to our cause to be taking such an active role, and I agreed to join the directorate they were creating.

13. Over the next several days "Feldman" took control of the operation and moved the headquarters to the Four Ambassadors Hotel, also in Miami, where we met constantly. "Feldman" and his assistants discussed with me possible candidates for the directorate, but it was obvious that they had already decided who they wanted. The most important thing, "Feldman" emphasized, was that the directorate be formed immediately. He told me that the CIA was worried that the Congress might enact legislation to prohibit the use of United States funds for the purpose of overthrowing the Nicaraguan government, and that the creation of a

political directorate composed of prominent, respectable civilians might persuade the Congress not to enact such legislation.

14. The press conference was held the next day, December 8, 1982, at the Hilton Conference Center in Fort Lauderdale, Florida. We filed in and introduced ourselves as the directorate of the Nicaraguan Democratic Force (FDN), and then I read our statement of principles and goals. A CIA officer named "George" had rewritten our original version of the statement, and I had to read his words. In January 1983, at the instruction of CIA agent "Thomas Castillo", we put out a 12-point "peace initiative" drafted by the CIA, which essentially demanded the surrender of the Sandinista government. I thought this was premature, but "Castillo" insisted that it be done to get the FDN favorable publicity. Also at this time, another Nicaraguan civilian Adolfo Calero who had just left Nicaragua, was added to the directorate. Calero had been working for the CIA in Nicaragua for a long time. He served as, among other things, a conduit of funds from the United States Embassy to various student and labor organizations. "Feldman" had told me that the CIA was bringing him out of Nicaragua, where he had run the local Coca-Cola distributorship, to serve on the FDN's political directorate. Despite these public relations efforts, the United States Congress enacted a prohibition on CIA efforts to overthrow the Nicaraguan government, although it appropriated millions of dollars to the CIA for clandestine military and paramilitary activities against the Nicaraguan government. Before this prohibition was enacted, the CIA agents we worked with spoke openly and confidently about replacing the government in Managua. Thereafter, the CIA instructed us that, if asked, we should say that our objective was to interdict arms supposedly being smuggled from Nicaragua to El Salvador. If any of us ever said anything publicly about overthrowing the Nicaraguan government, we would be visited immediatley by a CIA official who would say, "That's not the language we want you to use". But our goal, and that of the CIA as well (as we were repeatedly assured in private), was to overthrow the government of Nicaragua, and to replace the Sandinistas as a government. It was never our objective to stop the supposed flow of arms, of which we never saw any evidence in the first place. The public statements by United States Government officials about the arms flow, we were told by the CIA agents with whom we worked, were necessary to maintain the support of the Congress and should not be taken seriously by us.

15. From January 1983 through June 1984, I worked for the FDN full time and remained a member of the political directorate until November 1984. The CIA paid me a salary of $2,000 a month to support myself and my family, plus expenses. Similar arrangements were made with the other FDN "directors". I was put in charge of public relations for the FDN. We wanted to set up highly visible headquarters in a shopping center or office building, but the CIA did not like the idea. They said it would become a target for demonstrations or violence. They insisted that we take an elegant suite at the David Williams Hotel in Coral Gables, Florida, which the CIA paid for.

16. At the end of January 1983, I was instructed to relocate to Tegucigalpa, Honduras, to establish and manage the FDN's communications office. The CIA station in Tegucigalpa, which at that time included about 20 agents working directly with the FDN, gave me money, in cash, to hire several writers, reporters and technicians to prepare a monthly bulletin called "Comandos", to run a clandestine radio station and to write press releases. I was also given money by the CIA to rent a house, office space and automobiles and to obtain office supplies and communications equipment. I also received money from the CIA to bribe Honduran journalists and broadcasters to write and speak favorably about the FDN and to attack the government of Nicaragua and call for its overthrow.

Approximately 15 Honduran journalists and broadcasters were on the CIA's payroll, and our influence was thereby extended to every major Honduran newspaper and radio and television station. (I learned from my CIA colleagues that the same tactic was employed in Costa Rica in an effort to turn the newspapers and radio and television stations of that country against the Nicaraguan government.) I worked very closely in all of these matters with several CIA agents based in Tegucigalpa, but most closely with one of the deputy station chiefs, named "George", who had drafted the FDN's first press statement in Miami and was then transferred to Tegucigalpa to continue working with us. Together with "George", and subject to his approval, I planned all the activities of my communications office and prepared a budget. The budget was reviewed by the CIA station in Tegucigalpa and, if approved, sent to Washington to obtain the necessary funds, which were always provided to me in cash.

17. I was not the only member of the directorate to prepare a budget in this fashion. Indalecio Rodriguez, who was put in charge of "civilian affairs", which meant assistance for Nicaraguan refugees in Honduras or family members of our combatants, worked with his CIA "advisor" in the same manner in which I worked with "George". Adolfo Calero and Enrique Bermudez worked on the military and logistics budget. This budget was not as large as one might suppose. The FDN never received money to purchase arms, ammunition or military equipment. These were acquired for us and delivered directly to us by the CIA. One of the senior agents at the CIA's Tegucigalpa station, known to us as "the Colonel", was an expert in these matters, and he, together with his assistants, determined what we needed and obtained it for us, including: arms, ammunition, uniforms, boots, radio equipment, etc. As long as I was in Honduras (until June 1984), the FDN never acquired its own arms, ammunition or other military equipment. We were just the end receivers. The main items in the military and logistics budget that Calero and Bermudez worked on were things that could be acquired locally, such as food for our men, for which money had to be obtained from the CIA. Calero and Bermudez were our main links with the CIA. They met constantly with the CIA station chief (whose name I cannot reveal here because I am uncertain whether it is his real name or a pseudonym) and his principal deputies.

18. Most of the CIA operatives who worked with us in Honduras were military trainers and advisors. Our troops were trained in guerrilla warfare, sabotage, demolitions and in the use of a variety of weapons, including assault rifles, machine guns, mortars, grenade launchers and explosives, such as Claymore mines. We were also trained in field communications, and the CIA taught us how to use certain sophisticated codes that the Nicaraguan government forces would not be able to decipher. This was critical to our military operations because it enabled various units, or task forces, to communicate with each other, and to coordinate their activities, without being detected by the Sandinistas. Without this communications capacity, our forces inside Nicaragua would not have been able to coordinate their activities with one another and they would have been unable to launch effective strikes at the designated targets. Even more critical to our military activities was the intelligence that the CIA provided to us. The CIA, working with United States military personnel, operated various electronic interception stations in Honduras for the purpose of intercepting radio and telephonic communications among Nicaraguan government military units. By means of these interception activities, and by breaking the Nicaraguan government codes, the CIA was able to determine and to advise us of the precise locations of all Nicaraguan government military units. The information obtained by the CIA in this manner was ordinarily corroborated by overflights of Nicaraguan territory by United States satellites and sophisticated surveillance aircraft. With this information, our

own forces knew the areas in which they could safely operate free of government troops. If our units were instructed to do battle with the government troops, they knew where to set up ambushes, because the CIA informed them of the precise routes the government troops would take. This type of intelligence was invaluable to us. Without it, our forces would not have been able to operate with any degree of effectiveness inside Nicaragua. The United States government also made it possible for us to resupply our troops inside Nicaragua, thus permitting them to remain longer inside the country. Under cover of military maneuvers in Honduras during 1983, United States armed forces personnel constructed airstrips, including the one at Aguacate, that, after the CIA provided us with airplanes, were instrumental in resupplying our troops.

19. The CIA was also directly involved in our military tactics. The agency repeatedly ordered us to move our troops inside Nicaragua and to keep them there as long as possible. After our offensive at the end of 1982 was turned back, almost all of our troops were in Honduras and our own officers believed that they needed more training and more time before they would be ready to return to Nicaragua. The FDN officers were overruled by the CIA, however. The agency told us that we had to move our men back into Nicaragua and keep fighting. We had no choice but to obey. In 1983, the CIA instructed us not to destroy farms or crops because that would be politically counterproductive. In 1984, however, we were instructed to destroy export crops (especially coffee and tobacco), and to attack farms and cooperatives. Accordingly, we changed our tactics in 1984.

20. In July 1983, we were visited in Tegucigalpa by Duane Clarridge, the CIA official, based in Washington, who was in charge of the agency's military and paramilitary activities against Nicaragua. At that time we were introduced to Clarridge as "Maroni". (I am free to state his real name because his identity has already been publicly disclosed in the United States.) During a meeting with the political directorate, Clarridge told us that the CIA had decided that something must be done to cut off Nicaragua's oil supplies, because without oil the Nicaraguan military would be immobilized and its capacity to resist our forces would be drastically reduced. Clarridge spoke of various alternatives. He said the Agency was considering a plan "to sink ships" bringing oil to Nicaragua, but that one problem with this plan was that if a ship belonging to the Soviet Union were sunk it could trigger a serious international incident. Clarridge said that the CIA was also considering an attack on Nicaragua's sole oil refinery, located near Managua. According to Clarridge, however, the refinery was located in a densely populated area, and the civilian casualties resulting from such an attack would be politically counterproductive. Finally, Clarridge said that the Agency had decided on a plan to attack the oil pipeline at Puerto Sandino, on Nicaragua's Pacific Coast, where the oil tankers delivering oil to Nicaragua discharge their cargo.

21. In September 1983, the CIA blew up the pipeline at Puerto Sandino, just as Clarridge had advised us it would. The actual operatives were Agency employees of Hispanic descent, referred to within the Agency as "Unilaterally Controlled Latino Assets" or UCLAs. These UCLAs, specially trained underwater demolitions experts, were despatched from a CIA "mother ship" that took them to within striking distance of their target. Although the FDN had nothing whatsoever to do with this operation, we were instructed by the CIA to publicly claim responsibility in order to cover the CIA's involvement. We did. In October, CIA UCLAs attacked Nicaragua's oil storage tanks at Corinto, also on the Pacific Coast. This was a combined sea and air attack involving the use of rockets. It was a complete success; all of the tanks were destroyed and enormous quantities of oil were consumed by fire. Again, the CIA instructed us to publicly claim responsibility, and we did. Later in October, there was another UCLA attack on Puerto

Sandino, which again resulted in the demolition of the oil pipeline. We again claimed responsibility per instructions from the CIA. Subsequently, the UCLAs attacked Nicaraguan government military facilities at Potosi and radio antennas at Las Casitas. We, again, were told to claim responsibility and we did.

22. We had a second visit from Clarridge in October 1983. Clarridge told us that the Agency had decided that the FDN needed a single spokesman in order to more effectively persuade the Congress to continue supporting the CIA's activities against Nicaragua, and that Calero should be the one. He asked us to make Calero the head of the political directorate and we did so without objection. Clarridge also told us that the Agency wanted us to launch another major offensive with the objective of seizing and holding Nicaraguan territory, no matter how small. He said that as soon as our hold on that territory was secured, we should establish a provisional government, which the United States and its Central American allies would promptly recognize as the legitimate government of Nicaragua.

23. The offensive was launched at the end of 1983, after the Congress had appropriated — openly for the first time — $24,000,000 to the CIA for military and paramilitary activities in and against Nicaragua. While our forces inflicted greater casualties on the government's troops and on civilians, and destroyed more property than in previous attacks, we nevertheless failed to take or hold any Nicaraguan territory and the majority of our troops were forced to return to their bases in Honduras.

24. On January 5, 1984, at 2 am, the CIA deputy station chief of Tegucigalpa, the agent I knew as "George", woke me up at my house in Tegucigalpa and handed me a press release in excellent Spanish. I was surprised to read that we — the FDN — were taking credit for having mined several Nicaraguan harbors. "George" told me to rush to our clandestine radio station and read this announcement before the Sandinistas broke the news. The truth is that we played no role in the mining of the harbors. But we did as instructed and broadcast the communiqué about the mining of the harbors. Ironically, approximately two months later, after a Soviet ship struck one of the mines, the same agent instructed us to deny that one of "our" mines had damaged the ship to avoid an international incident.

25. In May 1984 the United States Congress voted not to provide more assistance to the CIA for military and paramilitary activities against Nicaragua. Many of us became worried about receiving continued support from the United States Government and we expressed these concerns to our CIA colleagues in Tegucigalpa. We were repeatedly assured by the station chief and his deputies, in the strongest possible terms, that we would not be abandoned and that the United States Government would find a way to continue its support. At around this time we were visited by Ronald F. Lehman II, a Special Assistant to the President of the United States who was serving then on the National Security Council. Mr. Lehman assured us that President Reagan remained committed to removing the Sandinistas from power. He told us that President Reagan was unable at that time to publicly express the full extent of his commitment to us because of the upcoming presidential elections in the United States. But, Mr. Lehman told us, as soon as the elections were over, President Reagan would publicly endorse our effort to remove the Sandinistas from power and see to it that we received all the support that was necessary for that purpose. We received a similar assurance of continued United States Government support, notwithstanding the refusal of the Congress to appropriate more funds, from Lt. Colonel Oliver North, another official of the National Security Council.

26. It was still important to these officials, and to the CIA, to obtain additional appropriations of funds from the Congress, and they had not abandoned hope that the Congress could be persuaded to resume funding our activities. Our CIA

colleagues enlisted us in an effort to "lobby" the Congress to resume these appropriations. I attended meetings at which CIA officials told us that we could change the votes of many members of the Congress if we knew how to "sell" our case and place them in a position of "looking soft on Communism". They told us exactly what to say and which members of the Congress to say it to. They also instructed us to contact certain prominent individuals in the home districts of various members of Congress as a means of bringing pressure on these members to change their votes. At various times Calero, Callejas, Zeledon, Salazar, Rodriguez and I participated in these "lobbying" activities.

27. A major part of my job as communications officer was to work to improve the image of the FDN forces. This was challenging, because it was standard FDN practice to kill prisoners and suspected Sandinista collaborators. In talking with officers in the FDN camps along the Honduran border, I frequently heard offhand remarks like, "Oh, I cut his throat". The CIA did not discourage such tactics. To the contrary, the Agency severely criticized me when I admitted to the press that the FDN had regularly kidnapped and executed agrarian reform workers and civilians. We were told that the only way to defeat the Sandinistas was to use the tactics the Agency attributed to "communist" insurgencies elsewhere: kill, kidnap, rob and torture.

28. These tactics were reflected in an operations manual prepared for our forces by a CIA agent who used the name "John Kirkpatrick". I assisted "Kirkpatrick" in translating certain parts of the manual, and the manuscript was typed by my secretary. The manual was entitled: *Psychological Operations in Guerrilla Warfare*. It advocated "explicit and implicit terror" against the civilian population, including assassination of government employees and sympathizers. Before the manual was distributed, I attempted to excise two passages that I thought were immoral and dangerous, at pages 70 and 71. One recommended hiring professional criminals. The other advocated killing some of our own colleagues to create martyrs for the cause. I did not particularly want to be "martyred" by the CIA. So I locked up all the copies of the manual and hired two youths to cut out the offending pages and glue in expurgated pages. About 2,000 copies of the manual, with only those two passages changed, were then distributed to FDN troops. Upon reflection, I found many of the tactics advocated in the manual to be offensive, and I complained to the CIA station chief in Tegucigalpa. The station chief defended "Kirkpatrick" and the manual, and no action was ever taken in response to my complaints. In fact, the practices advocated in the manual were employed by FDN troops. Many civilians were killed in cold blood. Many others were tortured, mutilated, raped, robbed or otherwise abused.

29. As time went on, I became more and more troubled by the frequent reports I received of atrocities committed by our troops against civilians and against Sandinista prisoners. Calero and Bermudez refused to discuss the subject with me, so I went straight to our unit commanders as they returned from combat missions inside Nicaragua and asked them about their activities. I was saddened by what I was told. The atrocities I had heard about were not isolated incidents, but reflected a consistent pattern of behavior by our troops. There were unit commanders who openly bragged about their murders, mutilations, etc. When I questioned them about the propriety or wisdom of doing these things they told me it was the only way to win this war, that the best way to win the loyalty of the civilian population was to intimidate it and make it fearful of us. I complained to Calero and Bermudez, and to the CIA station chief about these activities, but nothing was done to stop them. In June 1984, Clarridge visited us again. Although he was well aware of the terrorist tactics the FDN troops were employing, he spoke warmly to Bermudez: "Well done, Colonel," I remember him saying. "Keep it up. Your boys are doing fine." It was the last time I saw him. Shortly thereafter, I acknow-

ledged to a newspaper reporter that our troops had killed some civilians and executed some prisoners, though I tried to explain these practices as best I could. Calero told me I could no longer work in Honduras and I was reassigned to the local FDN committee in Miami. I was given nothing to do and I no longer had much interest in working for the FDN, or to be more accurate, for the CIA.

30. When I agreed to join the FDN in 1981, I had hoped that it would be an organization of Nicaraguans, controlled by Nicaraguans, and dedicated to our own objectives which we ourselves would determine. I joined on the understanding that the United States Government would supply us with the means necessary to defeat the Sandinistas and replace them as a government, but I believed that we would be our own masters. I turned out to be mistaken. The FDN turned out to be an instrument of the United States Government and, specifically, of the CIA. It was created by the CIA, it was supplied, equipped, armed and trained by the CIA, and its activities — both political and military — were directed and controlled by the CIA. Those Nicaraguans who were chosen (by the CIA) for leadership positions within the organization — namely, Calero and Bermudez — were those who best demonstrated their willingness to unquestioningly follow the instructions of the CIA. They, like the organization itself, became nothing more than executioners of the CIA's orders. The organization became so thoroughly dependent on the United States Government and its continued support that, if that support were terminated, the organization would not only be incapable of conducting any military or paramilitary activities against Nicaragua, but it would immediately begin to disintegrate. It could not exist without the support and direction of the United States Government.

31. I became more and more distanced from the FDN in the second half of 1984. I had, for all intents and purposes, ceased to be a part of the organization. Finally, on November 20, 1984, I received a letter stating that the political directorate had decided to relieve me of my duties. I made no protest.

32. My opposition to the Nicaraguan government continues. I oppose its policies and programs and I would like to see it removed or replaced. This should be accomplished, however, by the Nicaraguan people themselves, and not by the United States Government or by its instruments, including the FDN, which follow its dictates and serve its interests instead of those of the Nicaraguan people. My presentation of this testimony to the International Court of Justice is not an expression of support or sympathy for the present Nicaraguan government or its case against the United States. It is a result of my commitment to tell the truth, to all interested parties, about my personal experiences in the FDN. Since I left the organization at the end of 1984, I have spoken publicly in the United States about my experiences and I have made myself available to journalists whenever they have requested interviews. When Nicaragua's attorneys approached me and asked if I would present testimony about my experiences to the International Court of Justice, I decided to do so. This decision is consistent with my practice of speaking openly and honestly about my experiences before any interested body or forum. Whatever the best solution for the Nicaraguan people may be, I am convinced that it can only come about on the basis of truth, and that those of us with relevant personal experience are under a moral obligation to make the truth known.

(*Signed*) Edgar CHAMORRO.

Subscribed and sworn to before me this 5th day of September 1985.

(*Signed*) Hildred A. Carney,
Notary Public.

Supplemental Annex H

NOTE FROM UNITED STATES DEPARTMENT OF STATE TO THE EMBASSY OF NICARAGUA, WASHINGTON, 1 MAY 1985

The Department of State refers to the Treaty of Friendship, Commerce and Navigation between the United States of America and the Republic of Nicaragua, signed at Managua on January 21, 1956.

In view of the policies and actions of the government of Nicaragua against the peace and security of the Central American region in violation of the Charters of the United Nations and of the Organization of American States, and the consequent state of relations between Nicaragua and the United States, a situation has for some time existed which is incompatible with normal commercial relations under a treaty of friendship, commerce and navigation. The government of the United States hereby gives notice, pursuant to Article XXV, paragraph 3, of termination of this Treaty, effective one year from the date of this note.

Department of State,
Washington

DOCUMENT INFORMALLY MADE AVAILABLE
TO MEMBERS OF THE COURT
BY THE UNITED STATES INFORMATION
OFFICE IN THE HAGUE

DOCUMENT MIS OFFICIEUSEMENT
À LA DISPOSITION DES MEMBRES DE LA COUR
PAR LE BUREAU D'INFORMATION
DES ÉTATS-UNIS D'AMÉRIQUE À LA HAYE

"REVOLUTION BEYOND OUR BORDERS" SANDINISTA INTERVENTION IN CENTRAL AMERICA* **

"This revolution goes beyond our borders." (Tomas Borge, July 19, 1981.)

I. WHAT THE CONTROVERSY IS ABOUT

> "I am aware of the allegations made by the government of the United States that my government is sending arms, ammunition, communications equipment and medical supplies to rebels conducting a civil war against the government of El Salvador. Such allegations are false, and constitute nothing more than a pretext for the United States to continue its unlawful military and paramilitary activities against Nicaragua intended to overthrow my government. *In truth, my government is not engaged, and has not been engaged, in the provision of arms or other supplies to either of the factions engaged in the civil war in El Salvador*." [Emphasis added.] (Miguel d'Escoto Brockmann, Foreign Minister of Nicaragua, Affidavit filed before the International Court of Justice, dated April 21, 1984[1].)

A striking feature of the public debate on the conflict in Central America is the degree to which all parties concerned accept the principle that a nation providing materiel, logistics support, training and facilities to insurgent forces fighting against the government of another State is engaged in a use of force legally indistinguishable from conventional military operations by regular armed forces. As with conventional uses of force, such military action is permissible under international law if it is undertaken in the exercise of the right of individual or collective self-defense in response to an unlawful use of force[2]. But such action is unlawful when it constitutes unprovoked aggression.

As Nicaragua has stated to the World Court:

> "... there is now a substantially unanimous modern view concerning indirect use of force through armed groups of mercenaries or irregulars. Whatever legal doubts may have existed prior to World War II they were

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* For details regarding this document and its informal submission to the Court, see *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986*, p. 44, para. 73. [*Note by the Registry.*]

** Maps and figure not reproduced. [*Note by the Registry.*]

[1] Affidavit of Foreign Minister Miguel d'Escoto Brockmann, Nicaraguan Exhibit II submitted to the International Court of Justice at its public sitting of April 25-27, 1984, case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, p. 1. Resubmitted to the Court as Annex B to Nicaraguan Memorial (Merits), April 30, 1985.

[2] Other lawful bases for the use of force include actions taken by a State pursuant to decisions of the United Nations Security Council or at the invitation of another State within its territory.

> dispelled by the events of the post-war period. If the prohibition on the use of force in Article 2 (4) [of the United Nations Charter] was to have any meaning, it would have to cover this new and dangerous mode of military activity . . .[1]."

The critical element of the debate, therefore, is not the identification of the applicable legal standard, but the determination of the facts to be measured against that undisputed legal standard. In determining the facts, it is important to assess both the evidence of what has been done and the credibility of what has been said.

Nicaragua charges that, since at least 1982, the United States has used force against Nicaragua in the form of assistance to Nicaraguans fighting against the Sandinista régime. Any such actions, Nicaragua argues, are illegal and improper since Nicaragua has never taken any action against neighboring countries that would give them or their ally the United States the right to act against Nicaragua in self-defense. The fighting in El Salvador, and the violence in Honduras and Costa Rica, are, the Sandinistas say, entirely the work of home-grown movements with which Nicaragua has immense sympathy but to which it has provided no material assistance.

Nicaragua's case thus rests on statements by Sandinista representatives, such as that quoted above from Foreign Minister d'Escoto's affidavit filed with the World Court, denying any involvement in insurgencies and subversion in neighboring countries[2]. But, as the United States Congress, the Executive branch, the National Bipartisan Commission on Central America, and others who have studied the facts have repeatedly found, the Sandinista leaders have, since at least 1980, engaged in a carefully concerted use of force against its neighbors. A leading critic of United States Nicaragua policy, Congressman Edward P. Boland, Chairman of the House Permanent Select Committee on Intelligence, stated in March 1982:

> "There is . . . persuasive evidence that the Sandinista government of Nicaragua is helping train insurgents and is transferring arms and financial support from and through Nicaragua to the insurgents. They are further providing the insurgents bases of operations in Nicaragua . . . What this says is that, contrary to the repeated denials of Nicaraguan officials, that country is thoroughly involved in supporting the Salvadoran insurgency.

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[1] Nicaraguan Memorial (Merits), case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *I.C.J. Pleadings*, p. 126. The Sandinistas espouse these principles to Western audiences, while internally extolling their commitment to "revolutionary internationalism", the asserted right to aid "national liberation" movements elsewhere. Nevertheless, it seems appropriate to judge their actions by the standards which they use to judge others and which they claim to apply to themselves.

[2] The only concession the Sandinistas make to the argument that their actions justify a response against them is their claim that the United States would act against them in any event, and hence has forfeited any right to assist in the defense of neighboring States. This argument has nothing to do with the facts of United States policy toward Nicaragua since 1979. It also has no basis in law — a person who wrestles a gun from the hands of an attacker cannot himself be charged with assault (nor can the gunman's action itself be excused) on the basis of speculation that he would "no doubt" have struck the gunman even had the gunman not attacked first. The fact that Nicaragua has offered no serious alternative argument constitutes implicit recognition by the Sandinistas that they have no case once it becomes apparent that they have engaged in acts of aggression against their neighbors. In these circumstances, the right of their neighbors and the United States to respond cannot be challenged.

> That support is such as to greatly aid the insurgents in their struggle with government forces in El Salvador[1]."

The full Congress has on repeated occasions made formal findings concerning Sandinista aggression:

> "by providing military support (including arms, training, and logistical, command and control, and communications facilities) to groups seeking to overthrow the Government of El Salvador and other Central American governments, the Government . . . of Nicaragua has violated Article 18 of the Charter of the [OAS] which declares that no State has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State . . . [2]."

That the Sandinistas have engaged and continue to engage in aggression is not in doubt to Nicaragua's neighbors in Central America. There is no need to prove to these countries what they are experiencing on a daily basis. Nor are the Contadora countries[3] in doubt about the nature of Nicaragua's behavior. Indeed, as El Salvador informed the International Court of Justice last year:

> "Foreign Minister Miguel d'Escoto, when pressed at a meeting of the Foreign Ministers of the Contadora group in July 1983 . . . on the issues of Nicaraguan material support for the subversion in El Salvador, shamelessly and openly admitted such support in front of his colleagues of the Contadora group[4]."

The purpose of this paper is to address the reality and consequences of Nicaragua's longstanding and continuing intervention against its immediate neighbors, and to do so by focussing on the factors that are relevant to the legality and morality of the use of force: aggression and self-defense.

The record is documented in this study. It demonstrates that:

Almost precisely a year after the fall of Somoza in July 1979, the Sandinistas began a major effort to help guerrilla forces overthrow the Government of El Salvador by repeating the strategy followed by the Sandinistas in their own final offensive against Somoza. As a direct result of support by Nicaragua, and by other States using Nicaragua as a conduit, the Salvadoran guerrillas were transformed from terrorist factions that had been limited to robberies, kidnappings and occasional street violence into an organized armed force able to mount a coordinated nationwide offensive, inflicting significant loss of life and economic damage on El Salvador. Although this first intervention failed with the failure of the guerrillas in January 1981, the Sandinistas have continued to ship and store arms, and to provide training, headquarters and coordination on Nicaraguan territory for a new "prolonged war" strategy. As of early September 1985, Sandinista support continues to be an essential element in the training, communications and logistics systems of the Salvadoran guerrillas.

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[1] Press release dated March 4, 1982, by Congressman Edward P. Boland, Democrat, of Massachusetts, p. 1. On August 8, 1985, a similar view became United States law. Section 722 (c) (2) (C) of the International Security and Development Cooperation Act of 1985 expresses the finding of Congress that

> "the . . . Government of Nicaragua . . . has flagrantly violated . . . the security of the nations in the region, in that it . . . has committed and refused to cease aggression in the form of armed subversion against its neighbors . . ." (P.L. 99-83.)

See also Permanent Select Committee on Intelligence, Report on H.R.2760 (Amendment to the Intelligence Authorization Act for Fiscal Year 1983), H.R. Rep. 98-122, p. 5.

[2] Intelligence Authorization Act for 1984 (P.L. 98-215), s. 109 *(a)*.

[3] See App. 1, Glossary.

[4] Declaration of Intervention of the Republic of El Salvador, case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, submitted to the International Court of Justice, August 15, 1984, pp. 10-11.

Sandinista security services have, both directly and indirectly, through training, supply and support of subversive groups in Honduras and Costa Rica, engaged in bombings, assassinations and other unlawful attacks against the people and institutions of those nations. In Honduras, they supported "vanguard" groups first to supply the attack on El Salvador, then to engage in kidnapping, hijacking, and more recently in efforts to establish guerrilla fronts in the Honduran Departments of Olancho (in 1983) and El Paraiso (in 1984 and 1985). In Costa Rica, the Sandinistas redirected alliances established during the anti-Somoza struggle to support the expanded insurgency in El Salvador, provided covert support and training for the paramilitary wings of far left groups, and supported several terrorist actions.

Finally, the Sandinistas' military buildup threatens Nicaragua's neighbors. It has emboldened the Sandinistas to engage in military incursions into the territories of Honduras and Costa Rica, incursions in which citizens of these and other countries have died as a direct result of Nicaraguan military actions.

From the outset the United States has been aware of Nicaraguan aggression and has sought to help end it peacefully, using diplomatic appeals and economic and political measures. Notwithstanding the Sandinistas' claims that the United States has consistently sought for its own purposes to overthrow their regime and has only recently "manufactured" a collective self-defense rationale for its actions, the diplomatic and public record clearly shows that after July 1979 the United States assisted the new government in Nicaragua and tried to develop friendly bilateral relations. The record shows as well that the United States responded in a measured and graduated fashion when the Sandinistas refused to cease their intervention against other States in Central America. And the record shows that the Sandinistas themselves, through persistent aggression and refusal to participate seriously in efforts to address the regional conflict through peaceful means, bear the primary responsibility for the distrust and resentment of the Sandinistas that is found throughout Central America, and for the current strife within Nicaragua itself.

II. The Praxis of Intervention

> "The foreign policy of the Sandinista People's Revolution is based on the full exercise of national sovereignty and independence and on the principle of revolutionary internationalism." (FSLN "72-hour" Document, September 1979 [1].)

> "This revolution goes beyond our borders. Our revolution was always internationalist from the moment Sandino fought [his first battle]." (Tomas Borge, July 19, 1981 [2].)

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[1] *Analisis de la Coyuntura y Tareas de la Revolucion Popular Sandinista (Tesis Politicas y Militares presentadas por la Direccion Nacional del Frente Sandinista de Liberacion Nacional en la Asamblea de Cuadros "RIGOBERTO LOPEZ PEREZ" celebrada el 21, 22 y 23 de Septiembre de 1979)* [Managua], October 1979 (often referred to as the "72-Hour Document"), p. 24.

[2] At a military ceremony broadcast on Managua Domestic Service, as reported by *FBIS* on July 21, 1981.

"We cannot cease being internationalists unless we cease being revolutionaries." (Bayardo Arce, May 6, 1984[1])

The Sandinista National Liberation Front (FSLN) was founded in Tegucigalpa, Honduras, in July 1961 at a meeting among Tomas Borge Martinez, Carlos Fonseca Amador, and Silvio Mayorga. All had been student activists in Nicaragua; all had participated in preliminary meetings in Cuba; all identified with the Cuban revolution and with armed conflict. The first armed FSLN guerrilla units entered Nicaragua from Honduras in 1962 carrying Cuban-supplied weapons[2].

By the time the FSLN was founded, internationalism and guerrilla warfare had already been united in Sandinista praxis in the form of the "Rigoberto Lopez Perez" Column. This guerrilla group had been organized in mid-1959 with advice from Ernesto "Che" Guevara and supplied by Cuba. The 55 Nicaraguans, Cubans and other internationalists who belonged to it were dispersed by the Honduran army before they could enter Nicaragua[3].

The FSLN suffered repeated defeats in its armed opposition to the Somoza dynasty, which after 1967 was headed by Anastasio Somoza Debayle. Fifteen years after their opening attacks, Fonseca and Mayorga were dead and FSLN forces had no more than 300 guerrillas belonging to three feuding factions[4].

A new strategy to gain alliances beyond the borders of Nicaragua, especially with non-Marxist States and organizations, gradually developed in the wake of a failed October 1977 campaign against Somoza. Events soon gave the FSLN the opportunity to develop alliances with moderate and democratic groups and individuals who previously would have shunned the FSLN because of its Cuban ties and penchant for violence. In January 1978, Pedro Joaquin Chamorro, the editor of *La Prensa*, Nicaragua's leading newspaper, was murdered by assailants widely believed to be associated with Somoza. Chamorro was Somoza's leading critic and a strong democrat. His death set off the national revulsion that eventually destroyed Somoza.

Throughout 1978, while Nicaraguan business, religious and civic leaders were moving irrevocably into opposition to Somoza, Armando Ulises Estrada, a high-ranking member of the America Department of the Communist Party of Cuba, made numerous secret trips seeking to unify the three major factions of the

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[1] "Comandante Bayardo Arce's Secret Speech before the Nicaraguan Socialist Party (PSN)", Department of State Publication 9422, *Inter-American Series* 118, Washington, D.C., March 1985, p. 4 (translated from the text published in *La Vanguardia*, Barcelona, August 23, 1984).

[2] Claribel Alegria and D. J. F. Flakoll, "Nicaragua: la revolucion sandinista", *Serie Popular Era*, Mexico, 1982, quote Borge on the establishment of the FSLN and its 1962 operation at pp. 166-168. The organization established in Honduras in July 1961 was originally to be named simply the National Liberation Front. "Sandinista" was added because of Fonseca's belief in the need for a historic Nicaraguan symbol. In this way, Augusto Sandino, a nationalist, became the symbol of an internationalist movement.

[3] The defeat brought a wounded Fonseca to Havana where he made personal contacts with the Cuban revolutionary leadership that contributed to the founding of the FSLN. In 1960, Borge also met with Che Guevara in Havana.

[4] Leaders of the three factions were: Tomas Borge, "Prolonged Popular War", Humberto and Daniel Ortega, "Third Force" or "Insurrectionist", and Jaime Wheelock, "Proletarian". The factions are described in George Black, *Triumph of the People. The Sandinista Revolution in Nicaragua* (London, 2ed, 1981), pp. 91-97.

FSLN. In March 1979, the three Sandinista factions entered into a formalized alliance with Fidel Castro's support[1]. Once unity was achieved, Cuba increased covert support operations, providing weapons, training and advisory personnel to the FSLN. Estrada and Julian Lopez Diaz, later Cuba's first ambassador to Sandinista Nicaragua, concentrated on building a supply network for channeling arms and supplies to Sandinista guerrilla forces[2]. By May 1979, these supply and support operations reached levels that helped neutralize the conventional military superiority of Somoza's National Guard and permitted the launching of a "final offensive".

Within weeks of Somoza's fall in July 1979, the FSLN was reaffirming its "internationalism" and solidarity with guerrillas elsewhere in Central America. Using their ties with Cuba, the Soviet Union and other Eastern Bloc nations, the FSLN began to develop a monopoly hold on domestic power and to convert Nicaragua into an operational center of "revolutionary internationalism"[3]. FSLN leaders in Managua quickly confirmed relationships of mutual support with the leaders of various armed movements throughout Central America. Contacts were also established with organizations and political movements that were not directly engaged in armed struggle, but that could become, or were already, part of a regional support network for armed revolutionary activities in Central America.

In 1979, the FSLN's program, which declared that the "principle of revolutionary internationalism" was one of the keys to Sandinista foreign policy, had been discussed and approved without publicity[4]. By 1981, the Sandinistas felt confident enough to reissue their 1969 program, which was more specific. The FSLN called for "authentic unity" of Central America to "lead the way to coordinating the efforts to achieve national liberation"[5].

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[1] Cuban radio announced as early as December 1978 that the three factions had agreed to merge. Also see Richard L. Millett, "Historical Setting", in *Nicaragua: A Country Study* (Washington, 1982), p. 51. Black, *op. cit.*, pp. 142-148, discusses unification without mentioning Cuba.

[2] Cuba today has an extensive intelligence and training apparatus, modern military forces and a large and sophisticated propaganda network. Making "Che" Guevara's attempts look amateurish, the Castro government is now able to utilize agents and contacts nurtured over 20 to 25 years. Most of the covert operations in Nicaragua were planned and coordinated by the America Department of the Cuban Communist Party. Headed by Manuel Pineiro Losada, the America Department emerged in 1974 to centralize operational control of Cuba's covert activities in the Western Hemisphere. The department brings together the expertise of the Cuban military and the General Directorate of Intelligence into a far-flung operation that includes secret training camps in Cuba, networks for covert movement of personnel and materiel between Cuba and abroad, and sophisticated propaganda support. See *Cuba's Renewed Support for Violence in Latin America*, Department of State Special Report No. 90, December 14, 1981.

[3] In this, of course, the Sandinistas are squarely in line with Cuban doctrine and practice. Article 12 of the Cuban Constitution "espouses the principles of proletarian internationalism and of the combative solidarity of the peoples". Section *(c)* states that "help to . . . peoples that struggle for their liberation constitutes . . . [an] internationalist right and duty". Between mid-1979 and mid-1981, the period in which the FSLN effectively drove out the other members of the national coalition that defeated Somoza, Cuban involvement in the daily affairs of the Nicaraguan government became comprehensive and direct. Cuban military, security and intelligence advisors served in many key roles in such key ministries as Defense and Interior.

[4] See footnote 1, p. 462, above.

[5] From "The Historic Program of the FSLN" in Rosset and Vandermeer, *The Nicaragua Reader*, New York, Grove Press, 1983, p. 145. 1981 was also the year in which Minister of Defense Humberto Ortega declared in a private meeting with army and militia officers that:

To coordinate "national liberation" efforts, the Sandinistas developed by mid-1980 the apparatus to sustain region-wide guerrilla operations, and to give them political as well as military support. With the assistance of the Cubans, Soviets and East Europeans, the Sandinistas created two institutions essential to such operations: the Department of International Relations (DRI) of the FSLN, and the Fifth Directorate of Intelligence associated with the government's General Directorate of State Security (DGSE).[1]

The Sandinistas' practice of revolutionary internationalism is implemented largely through these two organizations. The DRI, which is closely modeled after the America Department of the Cuban Communist Party, provides administrative support for political trainees from Central America. Headed by Julio Lopez Campos, it reports directly to the FSLN National Directorate and is responsible for establishing and maintaining support networks for the DGSE and the Fifth Directorate of Intelligence. The Fifth Directorate has been headed since its creation by Renan Montero Corrales (former name, Andres Barahona Lopez), a Cuban-born naturalized Nicaraguan who was with Che Guevara in Bolivia. It provides the operatives and the liaisons necessary to maintain the clandestine links and support networks for activities on behalf of the guerrilla organizations in the Central American region.

Sandinista success in mediating differences among four Guatemalan guerrilla groups in November 1980 made clear Nicaragua's new role. Unlike the similar previous Nicaraguan (1979) and Salvadoran (1980) guerrilla unity agreements, which were forged in Cuba, the statement of "revolutionary unity" among the Guatemalan guerrilla organizations was signed and dated in Managua.[2]

Those attending the signing epitomize the apparatus: members of the FSLN National Directorate, delegates from the Cuban Communist Party, including America Department chief Manuel Pineiro, and the Managua representatives of the Salvadoran

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"Marxism-Leninism is the scientific doctrine that guides our Revolution, the instrument of analysis of our Vanguard for understanding its historic role and for carrying out the Revolution; . . . Without Sandinismo we cannot be Marxist-Leninists, and Sandinismo without Marxism-Leninism cannot be revolutionary; that is why they are indissolubly linked and that is why our moral force is Sandinismo, our political force is Sandinismo, and our doctrine is Marxism-Leninism." (From the text printed October 9, 1981, in *La Nacion* (Tegucigalpa) using the edition of the speech circulated on August 25, 1981, by the Political and Cultural Training Section of the Sandinista People's Army (EPS).)

[1] According to Miguel Bolanos Hunter, who served in Nicaraguan counter-intelligence 1979-1983, in 1983 the 2,800 to 3,000 Nicaraguans in the Department of State Security were supplemented by about 400 Cubans, 70 Soviets, 40 to 50 East Germans and 20 to 25 Bulgarians. He added that many of the Cuban military advisors were posing as civilian teachers. Don Oberdorfer and Joanne Omang, "Nicaraguan Bares Plan to Discredit Foes", *Washington Post*, June 19, 1983, p. A1.

[2] See the unity statement entitled, "Principios Generales y Acuerdos de la Unidad de las Organizaciones Revolucionarias EGP, FAR, ORPA, PGT", Managua, Nicaragua, November 2, 1980. According to one of the Guatemalan participants, the four guerrilla groups accepted an invitation from the FSLN to utilize "the optimal conditions of security [in Nicaragua] . . . so that they could dedicate themselves to the process of unity". The plan was to negotiate in Managua and then fly to Havana to sign the document of unity in the presence of Fidel Castro, members of the Cuban Communist Party, representatives from the FSLN and the Unified Revolutionary Directorate (DRU) of El Salvador. However, a decision was made to sign the document in Managua to reaffirm "the co-ordination and unity of Central America's revolutionary vanguard forces" and to be the first revolutionary organizations to unify on Central American soil. (Drawn from a tape-recorded account entitled "Informe de Manolo" (Manolo's Report) and obtained by Guatemalan security forces in March 1981.)

Unified Revolutionary Directorate, the DRU. The featured speaker was Ricardo Arce, who spoke on behalf of the FSLN and promised "unconditional assistance to the revolutionary process in Guatemala and El Salvador"[1].

To ensure that they would be invulnerable to retaliation from their neighbors for their expanding internationalist role, the Sandinistas undertook a substantial increase in Nicaragua's conventional military power[2]. By the end of 1980, Nicaragua's armed forces were twice as large as the Somoza National Guard at its height. The Sandinista People's Army doubled in size again by the end of 1982[3].

The country studies that follow illustrate the practical content the Sandinistas give to "revolutionary internationalism".

A. EL SALVADOR

> "They say that we are sending weapons to El Salvador but they have not offered any real proof. But let us suppose that weapons have reached El Salvador from here. This is possible. More than that, it is possible that Nicaraguan combatants have gone to El Salvador, but this cannot be blamed on any decision of ours." (Tomas Borge, April 1981[4].)

> "One thing is evident, the members of the [Sandinista] Directorate and all its working teams, some inside the country and others outside the country, are steadfastly at work fully aware of the need to unite *the internal struggle with international solidarity* and with the struggle of all peoples for the liberation of Central America and El Salvador . . . the Central American peoples' struggle is one single struggle." [Emphasis added.] (Salvadoran Guerrilla Leader, Salvador Cayetano Carpio, Managua, April 9, 1983[5].)

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[1] "*Informe de Managua*", pp. 18-22.

[2] Concern about "counter-revolutionary" activities by former National Guardsmen and other opponents of the regime was expressed from the earliest days (e.g., in the 72-hour document cited in note 1, p. 362, above). But the Sandinistas do not assert that the armed resistance had reached dimensions requiring a military buildup before 1982. See *Contrarrevolucion [sic]: Desarrollo y Consecuencias. Datos Básicos 1980-1985*, Managua, 1985. In addition to attempting to preclude military action by their neighbors in response to the Sandinistas' intervention in their affairs, the explanation for the early focus on developing a large military establishment may be also found in the capacity it gave the FSLN to exercise control over Nicaraguan society. The country's new armed forces were organized around the FSLN's armed elements, which numbered some 5,000 by July 1979. Significantly, they were denominated the Sandinista People's Army, and had an explicitly political, FSLN-related function as well as the customary duty of protecting Nicaragua from attack. The police forces were also organized by the FSLN. The party (with the Ministry of Interior troops commanded by FSLN Directorate member Tomas Borge and other smaller FSLN-controlled forces) thus had a monopoly on force within Nicaragua exercised through highly politicized bodies.

[3] According to the International Institute of Strategic Studies, Nicaragua's regular armed forces numbered 7,100 men and 4,000 paramilitary forces in 1977, just before the civil war heated up in 1978-1979. See *The Military Balance 1977-1978*, London, 1977, p. 74. By 1982, the Sandinista armed forces numbered 21,500 and its paramilitary forces around 50,000. See *The Military Balance 1982-1983*, London, 1982, pp. 104-106. By 1984, the Sandinista People's Army numbered 61,800 regular troops. See *The Military Balance 1984-1985*, London, 1984, p. 121.

[4] *Bohemia*, Caracas, April 20-26, 1981.

[5] Still the senior FMLN *Comandante* a few days before his suicide, Carpio was speaking at funeral services in Managua for murdered FPL *Comandante* Ana Maria as transmitted by Managua domestic service April 9, 1983, and repeated by *FBIS*, April 11, 1983. The murder, funeral, investigation and suicide were all covered in great detail in the FSLN newspaper, *Barricada*, during April 1983.

"The Salvadoran revolutionaries do not have military bases here. If they have bases outside of El Salvador, they are in Guatemala and Honduras." (Daniel Ortega, June 1983[1].)

Before the Sandinista Directorate took power in Managua, there were guerrillas in El Salvador but no guerrilla war. Extremist forces of El Salvador's left were violent but fragmented into competing factions. They had neither a unified organization nor the heavier, more destructive modern weaponry. To use Carpio's imagery, the Sandinistas were decisive in uniting the internal Salvadoran struggle with a broader international conflict.

Building on a base of solidarity in exile and armed opposition[2], Sandinista support for violent warfare in El Salvador falls into two distinct periods:

- an attempt to repeat in El Salvador the pattern of the Sandinistas' own final military offensive against Somoza; and
- "prolonged war" against El Salvador's economy, elections and institutions after the first approach failed.

1. Mobilizing for a "final offensive"

On July 21, 1979, four days after Somoza fled from Nicaragua, both Carpio's Popular Liberation Forces (FPL) and Borge's GPP faction of the FSLN were present at a meeting in Managua to discuss Sandinista support for armed struggle in El Salvador. The mobilization of external support did not get fully underway, however, until a meeting held in Havana in December 1979 produced agreement among the Communist Party of El Salvador (PCES), the Armed Forces of National Resistance (FARN) and the FPL to form a trilateral coordinating body[3]. During 1980, the original three were joined by two additional groups, the People's Revolutionary Army (ERP) and the Central American Revolutionary Workers' Party (PRTC) to form the Farabundo Marti National Liberation Front (FMLN), which, with its political arm, the Democratic Revolutionary Front (FDR) has served as the umbrella organization for the Salvadoran guerrilla movement.

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[1] *Time*, June 6, 1983, p. 18.

[2] During the war against Somoza, several Salvadoran groups on the extreme left provided support to the FSLN, but Carpio and his FPL and the Prolonged Popular War faction of the FSLN (FSLN/GPP) headed by Tomas Borge probably had the closest links. Carpio and Borge were cut to similar patterns: both left their respective national Communist Parties and formed militant splinter groups; both were rigidly partisan in their revolutionary philosophies, espousing prolonged armed struggle from a rural support base; and both remained committed "internationalists" even after breaking with the local Communist Parties. Part of the estimated $50-100 million accumulated in 1977-1979 by leftist extremist groups in ransom and protection payments was invested in the Sandinista revolution next door. Salvadoran radicals engaged in acts of "revolutionary solidarity" such as the February 14, 1978, People's Revolutionary Army (ERP) attack on the Nicaraguan Embassy in San Salvador, proclaimed as an "act of repudiation against Somoza" (*FBIS*, February 15, 1978.)

[3] Detailed information on these meetings, the subsequent trip of Salvadoran Communist Party (PCES) Secretary General Jorge Shafik Handal to the Soviet Bloc, the specifics of the supply routes through Nicaragua, was contained in PCES documents obtained in November 1980, and ERP documents collected in January 1981. This information was published in the State Department's Special Report No. 80, *Communist Interference in El Salvador* of February 23, 1981. Facsimiles of 19 documents were also released that same day: Department of State, *Communist Interference in El Salvador: Documents demonstrating Communist Support of the Salvadoran Insurgency*, February 23, 1981 (cited hereafter as *Documents*). The authenticity of these documents and of the story they tell has since been corroborated by new intelligence sources and defectors. See also "Response to Stories Published in the *Wall Street Journal* and the *Washington Post* About Special Report No. 80", Department of State, June 17, 1981, which contains a 25-point response to the factual criticisms of the February 23 report.

Redirecting the Costa Rican networks. The first step was to revitalize the networks originally established in Costa Rica during the struggle against Somoza to support armed struggle in El Salvador. Aided by a few Costa Rican officials, the Cubans arranged for the collection of excess Sandinista arms still in Costa Rica. Modest amounts of arms were infiltrated into El Salvador by Costa Rican and Panamanian pilots. On June 15, 1980, a twin engine Aero Commander crashed in El Salvador. The weapons and ammunition on board were recovered by the Salvadoran military. Arms from Costa Rican caches were also smuggled overland assisted by the FSLN and the Communist Party in Honduras[1].

Nicaragua becomes the hub. During the second half of 1980, Nicaragua became the center of the clandestine arms flow. Unlike Costa Rica and Honduras, Nicaragua provided a favorable environment, including secure communications and transportation links to Cuba by both sea and air.

In late May 1980, after negotiations in Havana, the ERP joined the guerrilla coalition. The new coalition, known as the Unified Revolutionary Directorate (DRU), issued a press release in Havana announcing the broadened alliance. During this visit, the DRU leaders met three times with Fidel Castro and discussed military plans with the Cuban Directorate of Special Operations — the same covert operations/special forces unit that had organized Cuba's intervention in Angola[2].

After the Havana meetings, DRU leaders went to Managua to meet with Sandinista officials. One Salvadoran participant reported that, in the first week of June, the FSLN Directorate offered a headquarters ("sede") in Nicaragua for the DRU with "all measures of security", that it was "disposed to contribute in material terms", and that it "assumes the cause of El Salvador as its own"[3].

Transshipping weapons from the Soviet Bloc. While the other DRU leaders went to Managua, Salvadoran Communist Party leader Jorge Shafik Handal had left Havana for Moscow. In early June, Shafik Handal met with Mikhail Kudachkin, an official of the Soviet Communist Party Central Committee. The Soviets suggested that Shafik Handal travel to Vietnam to seek arms. In Vietnam, Shafik Handal was received by Le Duan, the Secretary General of the Vietnamese Commanist Party, and other high-ranking party and military officials. The Vietnamese agreed as a "first contribution" to provide 60 tons of arms — overwhelmingly of United States manufacture, including 1,620 M-16 automatic rifles with 1,500,000 rounds of ammunition, enough to equip an entire combat infantry battalion[1].

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[1] A Special Commission established in June 1980 by the Costa Rican legislature confirmed that the clandestine arms-supply link between Costa Rica and Nicaragua, established in the fight against Somoza, continued to function between Costa Rica and El Salvador after July 1979. According to the Commission's report, "arms trafficking, originating in Costa Rica or through Costa Rican territory, [began] toward El Salvador, directly or using Honduras as a bridge". The quotation is from the Commission's *Report*, which was excerpted May 15, 1981, in *La Nacion*, San José, and reprinted by FBIS on June 12, 1984.

[2] "Informe de Eduardo Viaje de 5 de Mayo al 8 de Junio 80" (Report of trip of Eduardo from May 5 to June 8, 1980), *Documents*, D, pp. 2-3.

[3] *Ibid.*, p. 3.

Managing the weapons flow in Nicaragua. FSLN Directorate member Bayardo Arce met with members of the DRU General Staff in July 1980 to review the logistical infrastructure for the guerrilla war in El Salvador. Arce questioned the DRU's military and political preparations, but agreed to furnish ammunition, arrange meetings with the FSLN military commission to discuss military matters, and suggested that they might provide western-manufactured weapons from FSLN stocks[2]. By that time, the Nicaraguan security forces had already begun to receive weapons from the Soviet Bloc. As Bloc weapons were absorbed, the Sandinistas transferred some Western arms in their inventories to the Salvadoran insurgents.

By mid-September 1980, the arms promised to Shafik Handal during his earlier travels were en route to Cuba and Nicaragua. In September and October, aircraft flight frequencies and intelligence reporting both indicated a sharp increase in the flow of military equipment into Nicaragua from Cuba. Sandino International Airport was closed for normal traffic between 10 pm and 4 am for several weeks to accommodate cargo planes ferrying arms and other equipment from Cuba.

In late September, the United States made strong protests to the Nicaraguan government about the arms flow from Nicaragua to El Salvador. Fearful that discovery would jeopardize the recently approved $75 million in economic support funds from the United States, the Sandinistas held up transshipment of the arms for one month — despite Salvadoran guerrilla appeals to move these weapons onward. To the United States démarche, the Nicaraguan government responded that while some Nicaraguans, including individual officials, might be involved in arms shipments, the government itself was not responsible[3].

In mid-October, Havana was the site of a meeting at which representatives of the Communist Parties of Central America, Mexico and Panama agreed to set up a commission to oversee the provision of material aid to the Salvadoran guerrillas. Originally scheduled for Managua, the meeting was shifted to Havana at the request of the Sandinistas so as to obscure their involvement.

At the end of October 1980, immediately after the second tranche of a specially enacted $75 million program of United States aid to Nicaragua was authorized for disbursement, the Nicaraguans provided the Salvadoran guerrillas with a new delivery schedule and resumed weapons deliveries by sea and air on an even larger scale than before the suspension. Also in late October, the Salvadoran guerrillas decided to operate a clandestine radio station with the technical help of the Cubans and Nicaraguans[4]. On December 15, *Radio Liberacion* began to broadcast from Nicaragua. A second clandestine station, *Radio Venceremos*, subsequently began broadcasting in the vicinity of the Honduras-El Salvador border.

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[1] See Appendix 5. From June 19 to July 3, Shafik Handal visited the German Democratic Republic, Czechoslovakia, Bulgaria and Hungary. His requests produced several promises of arms and military equipment. The East Germans told Handal that they would be willing to divert some medical supplies they had already sent to Nicaragua, and that they would train Salvadoran guerrillas. Because they did not possess suitable Western arms, both East Germany and Hungary raised the possibility of exchanging communist for Western-manufactured arms with either Ethiopia or Angola. The Czechs promised Czech-made arms, of types already available in the West so as to maintain plausible denial.

[2] "Informe Sobre Viaje" (Trip Report), *Documents*, G, p. 3. The meeting with Arce took place on July 23, 1980.

[3] The diplomatic exchange is discussed below in Section III. The guerrillas discuss their logistics problems in *Documents*, J, K, L, M, N and O.

[4] *Documents*, P, transmits an "official" FMLN request for both a permanent clandestine station in Nicaragua and a mobile radio unit to overcome the success Duarte was having in "confusing" the people.

On November 1, 1980, the DRU logistics coordinator in Managua informed the guerrilla General Staff that approximately 120 tons of military equipment were still in Nicaragua awaiting shipment to El Salvador. He added that approximately 300-400 tons of weapons and materiel would be in Cuba by mid-November, ready for transfer to Nicaragua and then to El Salvador. The DRU coordinator urged the armed groups in El Salvador to work harder to absorb more arms shipments, noting that some communist countries had doubled their promised aid, and adding that: "This is the first revolution in Latin America to which they have committed themselves unconditionally with assistance before the seizure of power".[1]

Air routes from Nicaragua. Existing land infiltration routes could not move this growing volume of arms in time for the planned FMLN offensive of early 1981. Accordingly, Nicaragua — with Cuban support — assumed a more direct role and began airlifting arms from airfields in Nicaragua. This airlift was directed by the Commander of the Nicaraguan Air Force, Raul Venerio Granera, and a Cuban advisor.

The principal staging area came to be an airfield at Papalonal. The pattern and speed of construction at Papalonal, which is in an isolated area 23 nautical miles northwest of Managua, lacking adjacent commercial or economic activity, made clear its military function. In late July 1980, this airfield was an agricultural dirt airstrip approximately 800 meters long. By December, photography revealed a lengthened and graded runway with hard dispersal areas, and storage buildings under construction. By January 1981, the strip had been lengthened to 1,200 meters. A turnaround had been added at each end. A dispersal parking area with three hardstands had been constructed at the west end of the runway. Three parking aprons had been cleared, and three hangar or storage buildings, each about 15-meters wide, had been constructed on the aprons.[2]

On January 2, 1981, a C-47 was observed at Papalonal for the first time. Two C-47s were observed in February. These C-47s and DC-3s (the civilian version) were used to ferry larger cargos of arms from Papalonal to areas of guerrilla

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[1] "Informe #4" (Report #4) addressed to "Joaquin, Jacobo, Marcial, DRU del FMLN", *Documents*, K, p. 2. This hand-written letter-report from the PCES files adds that: "It is impressive how all countries in the Socialist Bloc fully committed themselves to meet our every request and some have even doubled their promised aid."

[2] Following is an extract from an intelligence summary written for the Carter White House on January 9, 1981, the day before the "Final Offensive" was launched. The analysis appears on pages 2 and 3 of a classified memorandum entitled "Nicaragua-Cuba: Increasing Support for Central American Insurgents". It was confirmed by subsequent events and information in virtually every respect although the volume of weapons, estimated below at about 60 tons by December, proved larger than this contemporary analysis suggested.

> "Nicaragua has taken a more direct role in supplying arms and materiel to the Salvadoran left, which is now receiving larger quantities of sophisticated weapons. Multiple sources previously had reported Sandinista arms shipments to El Salvador — by boat across the Gulf of Fonseca, by land via Honduras, or by air with the collaboration of Panamanian and Costa Rican gunrunners. Recent reporting, however, indicates that by last November the FSLN had begun airlifting weapons directly from Nicaragua to El Salvador.
>
> Four separate sources have reported on such flights or related preparations. In November, a Costa Rican arms trafficker made a 'paper sale' of several planes to a Honduran aviation company to conceal acquisition of the aircraft by the FSLN. A second source identified two of the same planes making clandestine flights from the isolated Papalonal airstrip in Nicaragua to Lempa and Santa Teresa airstrips in El Salvador. Costa Rican pilots in the pay of the Nicaraguan government, conducted six flights during November, delivering an estimated 5,000 pounds of arms — FAL and Galil rifles, ammunition, grenades and dynamite. The clandestine night flights were

infiltration in southeastern El Salvador. Several pilots were identified in Nicaragua who regularly flew the route into El Salvador. Radar tracking also indicated flights from Papalonal to southeastern El Salvador.

On January 24, 1981, a C-47 dropped arms by parachute in the vicinity of a small strip in southeastern El Salvador. On January 24, 1981, a Cessna from Nicaragua crashed upon takeoff after unloading passengers at an airfield in El Salvador close to where the C-47 airdrop occurred. A second plane, a Piper Aztec, sent to recover the downed crew, was strafed on the ground by the Salvadoran Air Force. The pilot and numerous weapons were captured. The pilot stated he was an employee of the Nicaraguan National Airlines (LANICA) and that the flight originated from Sandino International Airport in Managua[1].

Land and sea shipments from Nicaragua. While air resupply was playing a key role, infiltration was also taking place by land and sea. Overland arms shipments reached El Salvador through Honduras from Nicaragua and Costa Rica. Small launches operating out of several Nicaraguan Pacific ports crossed the Gulf of Fonseca at night carrying arms, ammunition and personnel[2].

> coordinated with Salvadoran leftists who secured and lit the airfields and unloaded the aircraft in minutes. A Nicaraguan government official and a Cuban advisor reportedly oversee the operations. By December, some 60 tons of weapons had been stockpiled in Nicaragua for transfer to El Salvador.
>
> Following the crash of one of the planes at Santa Teresa on 25 November, FSLN authorities ordered a halt to further flights until mid-December; at the pilots' request, the stand-down was extended until after the holiday season. Plans call for at least four flights per week from both Papalonal and Rosario airstrips, with daily flights once the Salvadoran insurgents begin a general offensive.
>
> In addition, a Nicaraguan government C-47 — piloted by a Sandinista Air Force (FAS) officer and with a joint Nicaraguan-Cuban crew — was to begin ferrying arms to El Salvador in mid-December, according to detailed information provided by two separate sources. The flights, under the supervision of Colonel Carlos Rodriguez, Cuban adviser to the FAS, were to originate from an unnamed airstrip in the same area as Papalonal.
>
> Recent imagery [aerial photography] substantiates this reporting. Papalonal airstrip was lengthened and new hangars and parking aprons were constructed late last year. Moreover, imagery also confirms the presence of a new C-47 at Managua's Sandino Airport on dates when our sources reported the plane's acquisition and the December training flights; imagery also subsequently showed a C-47 at Papalonal in early January at the same time there was a return to the normal inventory of C-47 planes in Managua.
>
> There are indications of more widespread Nicaraguan support operations in the offing. A camouflaged communications intercept site has been reported in extreme northern Nicaragua across the bay from El Salvador, and its presence appears confirmed by imagery. It will reportedly be augmented with additional equipment in the near future. This area was earlier reported to be the planned staging ground for a future Nicaraguan-supported assault by Salvadoran insurgents against a coastal Salvadoran target."

Note: A March 12, 1981, photograph of Papalonal airstrip, showing its development, is included in this report.

[1] The *FBIS* for January 27 and 28, 1981, carries accounts of this incident from ACAN, ACAN-EFE, Latin, and *La Prensa Grafica*, San Salvador, January 26, 1981.

[2] Arquimedes Canadas, alias Alejandro Montenegro, described these routes in detail after his arrest in Honduras in August 1982. See Appendix 3 and Hendrick Smith, "A Former Salvadoran Rebel Chief Tells of Arms from Nicaragua", *New York Times*, July 12, 1984, p. A10. An individual account of this same period was provided by Salvadoran guerrilla Santo Salome Morales, who defected in Honduras in September 1981, reported that he and 12 others went from El Salvador to Nicaragua via a point near the Gulf of Fonseca in May 1980. From Managua, they proceeded to Cuba where they received extensive military training, together with over 900 other Salvadorans. Morales said he was trained in underwater demolition.

In mid-January 1981, Honduran security forces intercepted a trailer truck in Comayagua that was part of an arms supply network run by FPL guerrillas working through Nicaragua. The truck contained weapons and ammunition in a false compartment in the roof. This one truck contained over 100 M-16/AR-15 automatic rifles, 50 81mm mortar rounds, approximately 100,000 rounds of 5.56mm ammunition, machine gun belts, field packs and first-aid kits. Over 50 of these M-16/AR-15 rifles were traced to Vietnam where they had been left when United States troops departed[1].

In May 1981, a Salvadoran defector from the Armed Forces of Liberation (FAL), Luis Alvarado Saravia, made a lengthy statement to the Salvadoran press. He detailed how the Nicaraguan government provided food, transportation and false documents to enable him to train in Cuba. He also described movements of guerrillas and arms from Nicaragua into El Salvador days prior to the January 1981 offensive. The arms and supplies he described included 2,200 rifles (FAL's, M-1s, and M-2s), two radio transmitters, ammunition, grenades, more than 15 rocket launchers, at least three .50 caliber and one .30 caliber machine guns, 125 boxes of TNT and 10 M-79 grenade launchers.

Impact of Nicaraguan aid. By December 1980, the guerrillas were employing weapons never before used in El Salvador. Among them were United States-made M-16 rifles and M-79 grenade launchers. Unlike the M-1s and the G-3s used by the Salvadoran military, most of these weapons were not available in the quantities involved in the FMLN offensive either locally or on the Central American black market. They were a far cry from the handguns, hunting rifles, shotguns and home-made explosives which, until mid-1980, had been the basis of the guerrilla arsenal in El Salvador.

Before January 1981, no nation-wide or even department-wide offensive had been launched by the guerrillas. In fact, the DRU and the FMLN, and even the FAL, one of their key components, were all founded only *after* the FSLN had demonstrated its willingness to help.

The "Final Offensive". On January 10, 1981, broadcasting from a clandestine radio station located inside Nicaragua, the guerrillas proclaimed that "the decisive hour has come to initiate the decisive military and insurrectional battles for the seizure of power"[2]. Radio Managua took up the call, broadcasting:

> "A few hours after the FMLN General Command ordered a final offensive to defeat the régime established by the military-Christian Democratic junta, the first victories in the combat waged by *our* forces began being reported[3]."

Within the first hours of January 10, four San Salvador radio stations had been captured; the guerrillas broadcast a tape to rally support, announcing that the assassination of José Napoleon Duarte and other Salvadoran leaders was imminent. Using the weapons smuggled from Nicaragua, guerrilla units struck at 40 to 50 locations throughout El Salvador, downed two helicopters and overran a National Guard post. Hit and run street actions were everywhere. In the cities buses were burned; in the countryside, guerrillas boarded buses and exhorted surprised passengers to take up arms. The cities of San Salvador, Santa Ana, Chalchuapa, Chalatenango and Zacatecoluca came under especially heavy fire. The governor of Santa Ana described the city as "under siege". Both airports were closed, their access roads cut[1].

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[1] ACAN-EFE reported the seizure on January 21, 1981, with a Tegucigalpa dateline (*FBIS*, January 22, 1981). See also Appendix 5. Although many weapons only have lot numbers that do not allow definitive traces, M-16s can be individually traced once corresponding records of serial numbers are located. Most of the M-16s in the truck referred to above were traced to Vietnam.

[2] See "A Call by the General Command of the FMLN to Initiate the General Offensive", reproduced at pages 82-83 of the FMLN-FDR Booklet *El Salvador on the Threshold of a Democratic Revolutionary Victory*, distributed in the United States in English during February-March 1981.

[3] The next day, January 11, 1981, the FSLN paper *Barricada* published an Extra that bannered "The final offensive has begun", complete with photographs of advancing guerrillas.

The guerrillas had hoped for a popular insurrection, which with their armed attacks, would result in a total breakdown in the government and lead to an immediate victory. This did not happen because a large majority of El Salvador's population ignored the guerrillas' appeals. Although four army officers joined the guerrillas, the army remained basically united and fought back.

The costs of this Nicaraguan-based assault on El Salvador's society were heavy. They were all the more tragic in that by 1981, the Salvadoran Government was beginning to address the serious political, social and economic problems that most concerned the people of El Salvador. In its commitment to reform, the Christian Democratic-armed forces junta of El Salvador had the full political support of the United States. On January 16, 1981, President Carter reacted to Sandinista arms supply activities by authorizing a modest resupply of ammunition[2]. But for transportation and communication equipment and other nonlethal items, the United States had provided no military aid, and no weapons or ammunition, to El Salvador since 1977.

2. *Prolonged war*

The failure of the "final offensive" produced a decision to carry on a prolonged war of attrition and economic sabotage while drawing on Nicaragua to increase the military strength of the guerrillas[3]. Although the FMLN was generally rejected by the population at large, guerrilla numbers continued to increase for some time after the "final offensive". The sophistication of their military equipment and strategy also improved.

Seeking to compensate for the failure of the "final offensive", the FMLN launched a series of terrorist attacks starting in late February 1981. The American Embassy in San Salvador was rocketed twice and strafed five times in March and early April. Guerrilla attacks against the economic infrastructure reached higher levels, as they increasingly targeted power towers, water pumping stations, electrical generators, the highways and productive facilities such as farms and businesses.

In October 1981, in a sophisticated attack displaying better training than they had previously shown, a large guerrilla contingent succeeded in destroying the major Puente de Oro bridge over the Rio Lempa. By that time, the strategy of attacks aimed at targets leading to a rapid popular uprising, as hoped for in the "final offensive", had given way to the attrition and economic starvation inherent in the "prolonged war" concept.

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[1] See FMLN's own summary of its actions as of January 12, 1981, reprinted in Appendix 6 below. Also see "El Salvador's Civil War", *Newsweek*, January 26, 1981. By the time fighting slowed, some ten days after the offensive began, about 400 people were dead and 800 injured.

[2] By mid-January 1981, enough information was available to make the Nicaraguan link clear to the Carter Administration. In an interview with editors of the *Washington Post* published January 30, 1981, outgoing Secretary of State Edmund Muskie said that arms and supplies being used in El Salvador's bloody civil war were flowing through Nicaragua "certainly with the knowledge and to some extent the help of Nicaraguan authorities".

[3] The decision was probably joint. The Salvadorans needed Nicaraguan help. The Sandinistas saw the war in El Salvador as a means of diverting attention from Nicaragua. In that period, Daniel Ortega told Assistant Secretary of State Thomas O. Enders that the FMLN was "nuestro escudo" Nicaragua's "shield". "Building the Peace in Central America", United States Department of State, *Current Policy* No. 414, August 20, 1982, p. 3.

The prolonged war concept was continued in 1982, with two noteworthy exceptions — the highly sophisticated and successful attack on Salvadoran military aircraft at the Ilopango Airbase early in the year and the nation-wide, coordinated, guerrilla offensive against the March 1982 elections, which failed in its goal of preventing the vast majority of voters from going to the polls. In the countryside, the guerrillas were massing, operating in larger numbers, utilizing more sophisticated communications equipment and weaponry and, in isolated areas, conducting operations more typical of a conventional war than a guerrilla conflict. These tactics continued through 1983, a year marked by an attack on the military headquarters of the Fourth Brigade in El Paraiso, Chalatenango Department, and destruction of the Cuscatlan Bridge on the Pan American Highway in December and January 1984.

Damage caused by the guerrillas. As of early 1983, some of the most fertile land could not be cultivated because of guerrilla attacks. Guerrilla actions had destroyed 55 of the country's 260 bridges and damaged many more. The national water authority had to rebuild 112 water facilities damaged by guerrilla action; 249 attacks on the telephone system caused millions of dollars in damage. In the 22-month period ending November 1982, the guerrillas caused over 5,000 interruptions of electrical power — an average of almost eight a day. The entire eastern region of the country was blacked out for over a third of the year in both 1981 and 1982. The guerrillas destroyed over 200 buses in 1982 alone. Less than half the rolling stock of the railways remained operational by early 1983.

In short, unable to win the free loyalty of El Salvador's people, the guerrillas set out deliberately and systematically to deprive them of food, water, transportation, light, sanitation and work.

Continuing patterns of Nicaraguan support. Continued Sandinista backing for the FMLN's military strategy consisted of three major components: arms and other logistical supplies, training and command and control. Levels of material support have fluctuated occasionally. The most notable declines took place during 1981 in the disorganization that briefly followed the defeat of the January offensive and again in late 1983 after the United States-Caribbean action in response to the collapse of the New Jewel government in Grenada. This continuing Nicaraguan aid was what allowed the Salvadoran guerrillas to continue their operations on a large scale.

Arms supplies. With Cuba as a main source[1], Nicaraguan supplies of arms to FMLN units were stepped up to make possible an offensive to disrupt a peaceful vote in the March 28, 1982, Constituent Assembly elections.

In the first three months of 1982, shipments of arms into El Salvador reached the highest overall volume since the "final offensive" in 1981. The Nicaraguan-based arms flow into El Salvador utilized both sea and overland routes through Honduras. In February 1982, a large shipment of arms arrived by sea from Nicaragua to the Usulutan coast. Early in March 1982, a guerrilla unit in El Salvador received several thousand sticks of TNT and detonators (five sticks of TNT are sufficient to blow up an electrical pylon).

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[1] In a Bonn press conference on June 19, 1981, German Social Democrat leader Hans-Jurgen Wischnewski reported that when he had personally confronted Castro with State Department contentions that Cuba had shipped weapons to Salvadoran guerrillas, Castro had admitted it was true.

In addition to small arms and vitally-needed ammunition, guerrilla supply operations in 1982 provided greater quantities of heavier weapons, including 57mm recoilless rifles and M-72 antitank weapons, thus significantly increasing guerrilla firepower. Individual units also regularly received tens of thousands of dollars for routine commercial purchases of supplies.

On March 15, 1982, the Costa Rican Judicial Police announced the discovery of a house in San José with a sizeable cache of arms, explosives, uniforms, passports, documents, false immigration stamps from more than 30 countries, and vehicles with hidden compartments — all connected with an ongoing arms traffic through Costa Rican territory to Salvadoran guerrillas. Nine people were arrested: Salvadorans, Nicaraguans, an Argentine, a Chilean and a Costa Rican. Costa Rican police also seized 13 vehicles designed for arms smuggling. Police confiscated some 150-175 weapons from Mausers to machine guns, TNT, fragmentation grenades, a grenade launcher and ammunition and 500 combat uniforms. One of the men captured told police that the arms and other goods were to have been delivered to the Salvadoran guerrillas before March 20, "for the elections"[1].

The flow of supplies from Nicaragua continued at high levels into 1983. According to Napoleon Romero, formerly the third ranking member of the largest guerrilla faction in the FMLN who defected in April 1985, his group was receiving up to 50 tons of material every three months from Nicaragua before the reduction in deliveries after United States-Caribbean action in Grenada. Romero gave a detailed description of just how the logistics network operated. The first "bridge" implemented for infiltration was an air delivery system. Romero stated that arms would leave Nicaragua, from the area of the Cosiguina Peninsula, for delivery to the coast of San Vicente department in El Salvador. He described the first such delivery as consisting of 300 weapons infiltrated at the end of 1980 in preparation for the January 1981 "final offensive". Romero claimed that air routes were suspended when the Salvadoran armed forces succeeded in capturing a large quantity of arms that came by air from Nicaragua. It was at this point in 1981, he continued, that seaborne delivery became, as it continues to be, the primary method of infiltration.

Romero described the sea route as departing from Nicaragua's Chinandega department or islands (like La Concha[2]) off its coast, crossing the Gulf of Fonseca, and arriving at the coast of El Salvador's Usulutan department. Thousands of rounds of ammunition translate into relatively small numbers of boxes, easily transported by man, animal, or vehicle over multiple routes. The lack of constant government presence, and the relatively short distances from the coastline to all major guerrilla fronts, reduce the difficulties of providing the guerrillas with certain types of logistics support from Nicaragua[3].

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[1] *La Nacion*, San Jose, March 16-21, 1982.

[2] In 1983, reporters visiting La Concha found: "A radio-equipped warehouse and boat facility, disguised as a fishing cooperative on an island in northwestern Nicaragua, has served for three years as a transshipment point for smuggling arms to El Salvador, numerous residents here say." Sam Dillon, "Base for Ferrying Arms to El Salvador Found in Nicaragua", *Washington Post*, September 21, 1983, p. A29.

[3] Guerrillas defecting or captured as late as 1985 stated that the department of Usulutan, especially the area around Jucuaran and the coastline from Isla el Arco to Playa el Cuco, continue to be essential for the distribution and transshipment of materials arriving in El Salvador from Nicaragua. While deliveries by land through Honduras and Guatemala continue, and time-sensitive air deliveries (including essential documents, personnel and medicines) also take place sporadically, the largest volume of arms, munitions and materials from Nicaragua arrives by way of the Usulutan coastline and interior transit points which lead to all the major guerrilla fronts in El Salvador.

Training. The Sandinistas also provided training to the Salvadoran insurgents, and served as a transit point to other external training locations. Nicaraguan and Cuban political and military training created the basic framework for the use of the arms by the guerrillas within El Salvador. The two countries co-ordinated the training efforts, with Cuba providing most specialized training for sabotage and demolition operations[1]. The Sandinistas, for their part, trained Salvadoran guerrillas in military tactics, weapons use, communications, and explosives at temporary training schools scattered around the country and on Sandinista military bases.

Training in Cuba and Nicaragua included rehearsing for attacks on specific targets in El Salvador — including the Puente de Oro Bridge in October 1981, the Ilopango Air Base in January 1982, and the 4th Brigade Headquarters in December 1983. Adin Ingles Alvarado, formerly a commander of the special forces unit of the FPL and a guerrilla from 1977 to his defection this year, recently publicly acknowledged that he and 27 others rehearsed in Cuba the December 30, 1983, attack on the 4th Brigade making simulated assaults using a mock-up of the 4th Brigade garrison constructed from sketches. Ingles also stated that the material used in the actual attack — explosives, machine guns and ammunition — came in via Nicaragua.

Command and control. As noted above, Salvadoran guerrilla actions were coordinated first by the Unified Revolutionary Directorate (DRU) then by the FMLN, using a general staff consisting of three members from each of the guerrilla groups active in El Salvador[2].

The basic system which continues into 1985 is as follows: boats or large canoes deliver the materials along the coastline where they are picked up and transported by animals, persons or small vehicles into the Jucuaran region of southern Usulutan to the several dozen guerrilla logistics basecamps. From Jucuaran, the supplies are transported along four major "corridors", within which there are dozens of routes depending on the method of transportation, the presence of Salvadoran security forces and the weather. These routes lead west out of Jiquilisco-Tres Calles, northwest via Tapesquillo Alto, north to El Brazo and northeast to Tierra Blanca-Bolivar. All major guerrilla fronts receive supplies through the Usulutan logistics network.

Within the Jucuaran area and along the four "corridors" and the dozens of roads, trails and rivers are located a series of storage facilities, usually natural caves or underground bunkers that have been fortified and concealed. Once materials are off-loaded along the coastline, they seldom remain in one location for more than 72 hours — reflecting both security precautions and the pressing need to sustain FMLN operations.

Napoleon Romero, the former FPL commander, estimated that this supply infrastructure was able to provide some 20,000-30,000 rounds of ammunition per month for the FPL alone. Some 3,000 guerrillas could be provided 100 rounds each (the usual load carried by a combatant), or 1,500 guerrillas could be provided with 200 rounds for a major battle. Such a delivery would weigh about 1,300 pounds and packaged in about 34 metal boxes which could be easily transported by 15-20 men, six pack animals or one small pickup truck. Given El Salvador's small size and the short distances involved, material entering along the Usulutan coastline could arrive at any of the guerrilla fronts in about one week under optimal conditions.

[1] Vice-President Carlos Rafael Rodriguez confirmed that Salvadoran guerrillas are trained in Cuba in at least two interviews (*Der Spiegel*, September 28, 1981, and *El Diario de Caracas*, October 29, 1981). The "Nidia Diaz" PRTC documents captured in April 1985 show that the Salvadoran guerrillas continue to receive training in Soviet Bloc countries in general. See "Captured Salvadoran Rebel Papers List Training Classes Overseas", *New York Times*, May 21, 1985.

[2] Public indications of centralized control come from the guerrillas themselves. On March 14, 1982, the FMLN clandestine *Radio Venceremos* located in El Salvador broadcast a message to guerrillas in El Salvador urging them "to maintain their fighting spirit 24 hours a day to carry out the *missions ordered by the FMLN general command* (emphasis added)".

Planning and operations were (and to a large extent continue to be) guided from Managua where Cuban and Nicaraguan officers provide advice. The guidance is radioed to guerrilla units throughout El Salvador. DRU/FMLN officials coordinate logistical support for the insurgents, including food, medicines, clothing, money and, most importantly, weapons and ammunition. Although some "free-lancing" takes place in the field as targets of opportunity appear, decisions on locations to be attacked and supply deliveries have generally been coordinated with Managua[1].

The FMLN General Command was in Managua from 1981 until late 1983, when the FMLN, in conjunction with Cuban advisors and the Sandinistas, decided that the FMLN military leadership should relocate to El Salvador, in particular to Morazan and Chalatenango departments. The changes were apparently due to Sandinista desires to maintain a lower profile in their support for the Salvadorans in the wake of the United States-Caribbean action in Grenada.

Romero points out that despite these changes, a "secondary directorate" remains in Managua providing, via radio communications, all the "suggestions" of the Cubans and Sandinistas to the FMLN General Command in El Salvador. In addition to the "secondary directorate", the Sandinistas and the Cubans have created special logistics organizations in Managua to coordinate arms smuggling.

Holding on : 1984-1985

The increasing political sophistication and military professionalism of the Salvadoran armed forces has forced the guerrillas to forego movement in large numbers and has impeded their massing for a major attack. In response, they have maintained the assault on the economic infrastructure and have returned to small-group tactics and urban terrorism. Again, their weaponry has improved; use of contact-detonated and command-detonated mines has made guerrilla ambushes, even with relatively few personnel, more lethal and has increased collateral damage to civilians[2].

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[1] Notes kept by Roberto Roca of the PRTC on meetings in Managua in March 1983 with "Simon", an FMLN representative in Managua, refer to talks with the "Sandis" telling them of Salvadoran guerrilla needs and making the Nicaraguans aware of two successful operations in El Salvador — Calle Nueva and La Esperanza. He states that the Sandinistas encouraged the FMLN to stay in Guazapa, and mentioned that he had presented a logistics plan that was approved. Discussions were held with representatives of the General Command. He observes that :

> "as long as the General Command remains inactive in the interior, it is necessary to participate in this representation at the maximum level, otherwise we would remain ignorant of important decisions and we would lack information of great importance".

In a letter from "Simon", the pseudonym of the FMLN representative in Managua, to Roberto Roca, leader of the PRTC, the former discusses the need to communicate with "Fidel" (presumably Fidel Castro) concerning logistics and operational problems with the "Sandinos".

[2] Economic damage is now estimated at well over 1 billion dollars. Radio Havana reported on August 27, 1985, that in 1985 alone guerrilla action has inflicted $120 million on the owners of the transport industry and $20 million on the National Association of Private Industries. In an interview in Perquin, El Salvador, top guerrilla leader Joaquin Villalobos told the western press that the FMLN

> "proposes a policy of attacking basic commerce, electrical energy, the roads, with frequent paralyzation of transport, railroad lines, telephone communication, export crops like sugar, cotton and coffee — aimed at breaking the war economy and the régime".

Quoted by Dan Williams, "Salvadoran War Will Widen, Rebel Warns", *Los Angeles Times*, July 7, 1985. Guerrilla spokesmen frequently state that 60,000 persons have been killed since 1979. Whatever the number, it is certain that the guerrilla war continues directly to claim many victims and to impede consolidation of political and economic reform.

Although the FMLN probably achieved its greatest military strength in late 1983, and thereafter increasingly lost the little popular support it had been able to maintain until then, the guerrillas have continued to operate in 1984 and 1985 as an effective fighting force. Guerrilla numbers may be down to about two-thirds of their highest levels. The strategic focus increasingly shifted to acts of terrorism and economic sabotage, as acknowledged by senior guerrilla leaders in recent interviews with the western press.

Little has changed in the Nicaraguan support system. Although Romero noted that the level of aid dropped after Grenada in October 1983, supplies have continued to come in from the warehouses in Managua. Romero said that his faction still receives about three-quarters of its ammunition supplies from Managua and virtually all its supply of explosives. The Sandinistas continue to control the distribution of the supplies, approving or disapproving the requests from individual guerrilla groups on the basis of the tactical soundness of their planned operations. Weapons continue to be infiltrated by land and sea[1].

The Sandinistas also continue to provide training for the Salvadoran guerrillas. From March to June 1984, for example, 100 ERP members received a self-defense course at Cerro Chiribisquira in Leon department at Kilometer 28 on the Old Leon Highway[2]. Alfredo Fernandez Flores, an ERP member captured in early August 1985, indicated during his debriefing that Nicaragua continues to provide ERP with combat training. Fernandez said that he spent 15 days in May 1985 in Nicaragua's Matagalpa department fighting with the Sandinista People's Army (EPS) to gain combat experience. Eight other Salvadorans also participated in this fighting[3].

B. HONDURAS

> "At no time has there been any attack on Honduran territory from Nicaragua . . ." (Nicaraguan Foreign Ministry Communique, June 22, 1983[4].)

Immediately after July 1979, the Sandinistas and the Cubans paid little attention to "solidarity" activities in Honduras. Radical leftists in Honduras had never been particularly effective, and in 1979 were not yet in a position to carry out serious subversive activities[5]. Honduran territory, however, was from the start of primary importance as a transit route for the flow of arms from Nicaragua to the Salvadoran insurgency, and, to a lesser extent, to guerrillas active in Guatemala. In 1980, the Sandinistas also began to provide logistical support, training and advice for the proliferating Honduran factions seeking the violent overthrow of the Honduran Government.

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[1] On August 27, 1985, Salvadoran authorities apprehended a pickup truck entering El Salvador from Honduras at the El Poy checkpoint. The truck was carrying 84 50-round boxes of assorted pistol and rifle ammunition of United States manufacture in a concealed compartment.

[2] Santos Enrique Garcia, who was a member of ERP in Nicaragua from 1981 until March 1985 and trained in Cuba, was captured by the National Police in July 1985 after he had returned to El Salvador. During Garcia's stay in Nicaragua, the ERP had approximately 150 members in Nicaragua. According to Garcia, as of March 1985, approximately 75 of those members had left the ERP, complaining of poor treatment and a lack of monetary compensation for their work.

[3] Debriefing of Alfredo Fernandez Flores, August 1985.

[4] As reported Managua domestic service, *FBIS*, June 23, 1983.

[5] In the November 1981 national elections the two traditional parties received 96 per cent of the popular vote from a high turnout of 80 per cent of eligible voters. See "Liberal Party in Honduras Takes Big Lead in Vote", *New York Times*, November 30, 1981; "Honduran Victor in Overture to Foes", *New York Times*, December 1, 1981.

Transfer of arms to El Salvador and Guatemala. Honduran territory and radical cadres became part of the logistics network for the transfer of arms to Salvadoran insurgents. The operations were done in ways to minimize actions that might provoke the Honduran Government into abandoning the passivity it had previously displayed toward Sandinista operations against Somoza. Indeed, it was some time before the Honduran Government was able to move effectively against the supply routes operating through Honduras.

In January 1981, Honduran authorities made their first major interdiction of supplies headed for the rebels in El Salvador when they discovered the arms trafficking network in the town of Comayagua, near the El Salvador border[1]. In April 1981, the Hondurans intercepted a second shipment in a tractor-trailer. This truck had entered Honduras at the Guasaule crossing from Nicaragua and was apparently heading for Guatemala. Ammunition and propaganda materials were hidden in the side walls of the trailer. The same arms traffickers operated a storehouse in Tegucigalpa, Honduras, with a false floor and a special basement for storing weapons[2].

Honduran territory was also the likely conduit for the arms caches captured by Guatemalan security forces at safehouses in Guatemala City in April and July 1981. As with arms captured in January in Honduras, traces made on the serial numbers of individual United States-manufactured weapons seized in Guatemala revealed that 17 M-16/AR-15s had originally been shipped to American units in Vietnam. Several of the vehicles captured at the Guatemala City safehouses bore recent customs markings from Nicaragua[3].

The discoveries pointed to the greater effectivness of Honduran security operations along the border with Nicaragua. In response, the level and size of arms shipments passing through Honduran territory began to fall off. They did not cease, however. A former guerrilla commander of the Salvadoran People's Revolutionary Army (ERP), Alejandro Montenegro, stated that guerrilla units under his command in 1981-1982 received monthly shipments of arms from Nicaragua, mostly via the overland route from Honduras[4]. More recently, another senior Salvadoran guerrilla leader, Napoleon Romero, confirmed after his defection in April 1985 that Honduras continues to be an important transit route for arms from Nicaragua. His group, the Popular Liberation Forces (FPL), brings supplies overland from Nicaragua to Tegucigalpa whence they are transferred to Chalatenango department in northern El Salvador. He has stated that most shipments now, in contrast to earlier years, are small so as to minimize the danger of discovery[5].

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[1] See text and footnote 1, Section II A, p. 472, *supra*.

[2] Intelligence on the first major interdictions of arms shipments by the Honduran security forces was declassified and presented by the Honduran delegation to the XIVth Conference of the American Armies in 1981. See also broadcast by Radio America, Tegucigalpa, April 9, 1981, as reported in *FBIS*, April 10, 1981. In May and June 1982 the Security forces discovered three more safehouses in Tegucigalpa, including caches of arms believed to have come from the Sandinistas. See State Department unclassified cable *Tegucigalpa* 4821, June 9, 1982.

[3] The discovery of the safehouses was reported by ACAN-EFE, July 21, 1981, Radio Nuevo Mundo, Guatemala City, and Radio-television Guatemala, July 21 and 22, 1981, as reported in *FBIS*, July 24, 1981.

[4] "A Former Salvadoran Rebel Chief Tells of Arms From Nicaragua", *New York Times*, July 12, 1984, p. A10.

[5] Debriefing of Napoleon Romero, April and May 1985. See also "Salvadoran Rebels Change Tactics", *Washington Post*, May 17, 1985; "New Sources Describe Aid to Salvadoran Guerrillas", *Washington Post*, June 8, 1985.

Armed struggle 1981-1983. Prospects for vanguard activism in Honduras itself began to change in late 1981 when the country's small Marxist parties fragmented. The splits were often generational in nature, and took the form of differences over the road to power. Almost invariably the new younger factions — inspired by Sandinista success — favored armed struggle over the gradual methods favored by the older generation.

By 1981 the Sandinistas were working closely with the new groups. In an October 1981 interview in the pro-government Nicaraguan newspaper *El Nuevo Diario*, the Morazanist Front for the Liberation of Honduras (FMLH) founded in 1979 was described by "Octavio", one of its leaders as a political military organization formed as part of the "increasing regionalization of the Central American conflict". On November 17, 1981, the Honduran police raided a safehouse in Tegucigalpa belonging to the Honduran Front for Popular Liberation (FHLP)[1]. Police ultimately captured several members of this group, including a Honduran, a Uruguayan and several Nicaraguans. The captured terrorists told Honduran authorities that the Nicaraguan government had provided them with funds for travel expenses and explosives.

Documents captured in the raid and statements by the detained guerrillas further indicated that:

> the group was formed in Nicaragua at the instigation of high-level Sandinista leaders;
> the group's chief of operations resided in Managua; and
> members of the group received military training in Nicaragua and Cuba.

The documents included classroom notes from a one-year training course held in Cuba in 1980. Other documents revealed that guerrillas at one safehouse were responsible for transporting arms and munitions into Honduras from Esteli, Nicaragua.

During 1981 other "post-Nicaragua" groups made their presence felt. The most formidable was the People's Revolutionary Union/Popular Liberation Movement (URP/MLP). It was more popularly known as the "Cinchoneros". In March 1981 Cinchonero members hijacked a Honduran Airlines flight and diverted it to Managua. Tellingly, they demanded the release of 10 Salvadoran guerrillas who had been captured in Honduras while smuggling arms to the FPL in El Salvador. Sandinista officials refused to cooperate with Honduran authorities — to the point of refusing them access to the control tower to communicate directly with the hijackers. The Hondurans were forced to accede to the terrorist demands, freeing the Salvadorans and flying them to Cuba[2].

In September 1982, the Cinchoneros seized control of the Chamber of Commerce in San Pedro Sula, Honduras' second largest city, holding 107 prominent businessmen and three cabinet ministers hostage. The demand once again centered on the release of captured Salvadorans and other imprisoned guerrillas. The Cinchonero attackers finally ended the hostage incident without achieving any of their demands except safe passage to Cuba on September 28, 1982[3].

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[1] Official *Informe sobre la Captura y Desmantelamiento del Grupo Subversivo Autodenominado "Frente Hondureno de Liberacion Popular"*, Tegucigalpa, December 2, 1981.

[2] See, "Honduran Plane is Hijacked and Lands In Managua", March 28, 1981; "Hostages Released From Honduran Jet", March 29, 1981; and "Panama Plane Will Fly Captives From Honduras", *New York Times*, March 30, 1981.

[3] See Agence France Presse (AFP), *El Tiempo* (Tegucigalpa), *La Prensa* (San Pedro Sula), *El Heraldo* (Tegucigalpa), ACAN-EFE, as reported in *FBIS*, September 23-24, 1982.

Another armed Honduran group, the Popular Revolutionary Forces (FPR), carried out an airplane hijacking on April 28, 1982. They demanded the release of over 50 prisoners but again settled for safe passage to Cuba on May 1, 1982[1]. The FPR were also responsible for a number of bombings and attacks on the offices in Honduras of United States companies in 1982[2]. On July 4, 1982, they sabotaged the main power station in Tegucigalpa[3]. In roughly the same time period as the attacks, the FPR was also training cadres in Nicaragua and Cuba for a future "invasion" of Honduras.

Olancho 1983, El Paraiso 1984-1985. The extent to which the Sandinistas back subversive movements inside Honduras became apparent when Honduran guerrillas — trained and supplied by Nicaragua and Cuba — attempted to establish guerrilla bases in the Olancho department of Honduras in 1983 and in El Paraiso in 1984[4].

The two Honduran groups involved in the attempted "invasions" were the Honduran branch of the Central American Revolutionary Workers Party (PRTC) and the aforementioned FPR. The PRTC was then led by José Maria Reyes Mata, a radical activist since the 1960s who had accompanied "Che" Guevara on his ill-fated adventure in Bolivia[5]. In April 1980, in the month when Honduras was holding democratic elections for a constituent congress, Reyes Mata was arrested in connection with a wave of pre-election violence and the kidnapping of a Texaco executive. He was freed after by a general amnesty decree and moved to Nicaragua later the same year.

Once in Nicaragua, Reyes Mata began planning to open a front inside Honduras with Sandinista support. In 1981 he conducted an active recruitment campaign inside Honduras, and the first recruits departed via Managua for military training in Cuba. The trainees returned to Nicaragua in late 1982 and early 1983 and fought alongside Sandinista army units against the Nicaraguan resistance to gain combat experience.

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[1] An extremely detailed account of the hijacking, including government and guerrilla statements, as reported by radio Cadena Audio Video, Tegucigalpa, AFP, and ACAN-EFE, is reported in *FBIS*, April 29-May 3, 1982. See also "Hijackers Release Hostages, Fly to Cuba", *New York Times*, May 2, 1982.

[2] For the company bombings see State Department unclassified cable *Tegucigalpa* 6502, August 6, 1982. The cable provides a translation of the FPR communiqué claiming credit for the attacks on the United States firms.

[3] For the 4 July bombing see *Tegucigalpa* 5564, July 7, 1982. See also broadcast by Cadena Audio Video, Tegucigalpa, July 11, 1982, as reported in *FBIS*, July 12, 1982.

[4] Most of the information on the two operations was provided by defectors and or captured guerrillas. For Olancho see State Department unclassified cable *Tegucigalpa* [illegible], October 21, 1983. See also "Honduran Army Defeats Cuban-Trained Rebel Units", *Washington Post*, November 22, 1983. For El Paraiso see statement made by Department of National Investigation as broadcast by Voz de Honduras, Tegucigalpa, October 29, 1984, as reported in *FBIS*, November 1, 1984. See Appendix 3. Also see detailed unclassified account released in November 1984 by the United States Army Southern Command, *Cuban-Nicaraguan Support for Subversion in Honduras: El Paraiso, July 1984*.

[5] The PRTC is a regional radical group with branches in Honduras, El Salvador, Guatemala and Costa Rica. A history of the connections between the various factions is given in an undated "Brief Historical Overview of the PRTC", captured on April 18, 1985, by Salvadoran security forces which states by 1979 "the PRTC had developed an organized structure in Guatemala, El Salvador, Honduras and Costa Rica". The Salvadoran branch of the PRTC was responsible for the June 19, 1985, attack on a sidewalk café in San Salvador which left six Americans and seven Latin Americans dead. See *Washington Post* and *New York Times*, late June 1985, *passim*. On José Reyes Mata's 1980 arrest see ACAN-EFE, Tegucigalpa, May 8, 1981, and statement by public relations department of the Public Security Force, May 9, 1981, as reported by *FBIS*, May 12, 1981.

In July 1983 Reyes Mata and his 96-man force, armed by the Sandinistas, entered the isolated and underpopulated department of Olancho in eastern Honduras. The operation was structured as a vanguard action for other groups. The other forces were never infiltrated, however. The "invasion" was easily foiled by Honduran security forces and Reyes Mata was killed. Many of the participants captured by the Honduran Army gave detailed descriptions of their training in both Nicaragua and Cuba.

In July 1984 a similar effort was made to establish the base for a rural insurgency with the attempted infiltration of 19 FPR guerrillas into the Paraiso department along the border between the two countries. As was the case with the Olancho group, the FPR cadre received training at Pinar del Rio in Cuba and afterwards trained in Nicaragua fighting the armed opposition to the Sandinistas.

Again, the operation was contained by the Honduran army. Afterwards, members of the group led Honduran authorities to several arms caches and subversive groups in the Comayagua area.

In April 1985, the Sandinistas were again caught trying to provide support for the Honduran guerrilla groups, but this time the operatives arrested were Nicaraguans. Between April 11 and 14, seven Nicaraguans were arrested in Paraiso department trying to infiltrate arms to Cinchoneros based in Olancho department. One of them was a member of the Nicaraguan Directorate for State Security (DGSE) who stated that he had coordinated similar arms infiltrations since November 1984[1].

The leadership of Honduran guerrilla groups continues to reside in Nicaragua and United States intelligence reports current training of Honduran guerrillas in Managua.

Intimidation. The Sandinista government, in addition to supporting subversive movements inside Honduras, has engaged in a campaign apparently devised to intimidate the Honduran Government and keep it from effectively controlling its borders.

Border incursions by the Sandinistas have soured relations between the two countries almost from the moment Somoza fell in July 1979. The first of nearly 300 border incidents through mid-1985 occurred on July 22, 1979 — three days after the Sandinistas entered Managua[2]. Before the year was out there were at least a dozen more incidents. While the early missions were usually characterized by small units operating with light weaponry, by 1985 the Sandinistas were employing 120mm mortar rounds. Heavy shelling from Nicaraguan territory by rockets and heavy artillery has also occurred.

The Sandinistas in addition have placed antipersonnel land mines along both sides of the Honduran/Nicaraguan border. Although the mines are justified by the Sandinistas as self-defense against incursions by Nicaraguan resistance forces, the net effect is to endanger the resident rural population in the border areas. In June 1983, two American journalists were killed when their car hit a Czechoslovakian-manufactured mine on an Honduran road[3].

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[1] State Department unclassified cable *Tegucigalpa* 6152, May 8, 1985.

[2] *Incidentes Protagonizados por La Republica de Nicaragua en Perjuicio de Honduras*, annual reports from 1982 onwards. Also *Resumen de las Principales Actividades del Ejercito Popular Sandinista en la Frontera con Honduras desde Enero 1984 hasta 1 Junio 1985*, Estado Mayor Conjunto de Las Fuerzas Armadas.

[3] News Conference by Foreign Minister Edgardo Paz Barnica, broadcast June 22, 1983, as reported by *FBIS* the same day.

C. COSTA RICA

> "In 40 years of Somocismo, we never had the threat that we have in four years of Sandinismo." (Luis Alberto Monge, President of Costa Rica, December 1983[1].)

Costa Rican support was essential to the success of the struggle against Somoza. In November 1978 the Costa Rican Government severed diplomatic relations with the Somoza régime, and over the next eight months allowed Costa Rican territory to be used as a conduit for arms and supplies to the anti-Somoza war effort on its northern border.

In the process of aiding the insurrection, however, Costa Rica's open and stable democracy unwittingly opened the door to future troubles directly related to the Sandinistas. The Sandinistas' disdain for what Defence Minister Humberto Ortega referred to as a "bourgeois democracy in the hands of the rich", soon made itself apparent[2]. Costa Rican territory was used to transfer weapons to the Salvadoran rebels and groups inside Costa Rica were armed and given military training. Terrorism became a persistent problem from 1981 on, and Nicaraguan opponents of the Sandinistas became targets of assassination attempts. Tensions with Nicaragua increased in general with the growth of internal opposition to the Sandinistas and recurring border incidents.

Early ties to the Sandinistas. Costa Rica has long accepted the democratic participation of Socialist and Marxist parties in its political life[3]. With the advent of the Sandinista régime in Managua in July 1979, however, the tactical allegiance to democracy of some of the radical groups in Costa Rica began to shift. For some, peaceful participation in the political process could no longer be taken for granted.

The orthodox Communist Party in Costa Rica, then called the Popular Vanguard Party (PVP) and led by Manuel Mora Valverde, contributed cadres to Sandinista units to fight against Somoza and to accelerate the PVP's military preparedness in the event conflict broke out later in Costa Rica[4]. By early 1979, the PVP had several hundred combatants in Nicaragua.

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[1] Georgie Anne Geyer, "Taking the Sandinistas at Their Word", *Wall Street Journal*, August 23, 1985, p. 15.

[2] Humberto Ortega, Secret Speech, reproduced in *La Nacion*, San José, Costa Rica, October 10, 1981. Among other things, he observed that

> "the Costa Ricans . . . very intelligently have maintained [but softened] the exploitation of man by man with . . . that is the kind of democracy [our opposition] wants . . . that we the Sandinistas be like the left in Costa Rica — a group which mobilizes politically and puts out its own newspaper but where the bourgeoisie control power".

[3] The Costa Rican Marxist left is made up of several parties, foremost of which is the Costa Rican People's Party headed by Mora Valverde. Until 1984 his party was known as the Popular Vanguard Party (PVP). In 1948, military cadres of the PVP supported the unsuccessful efforts by the incumbent government to thwart the outcome of democratic elections. See Ralph L. Woodward, *Central America: A Nation Divided* (New York, 1976), pp. 223-224. For the 1978 and 1982 elections the radical parties formed coalitions in an effort to expand their representation at the national level. They received 7.3 per cent of the vote in 1978 and less than 4 per cent in 1982. See Harold D. Nelson (ed.), *Costa Rica: A Country Study* (Washington, 1984), pp. 216-218.

[4] Many scattered reports confirm the brigade's presence in Nicaragua. In 1982 a newspaper article referred to 700 Costa Rican leftists training in Nicaragua (*La Republica*, Panama City, February 7, 1982, as reported in *FBIS*, February 9, 1982). A former Nicaraguan official who defected in July 1985 recently gave details on a group of PVP militants being trained in Nicaragua across 1983. One of the Hondurans captured in connection with the infiltration of El Paraiso in July 1984 spoke of training with a PVP

The PVP maintained its force in Nicaragua after the Sandinistas came to power. Major elements of it remain there today and provide permanent training for paramilitary cadres who return to Costa Rica. The unit did not act in isolation. From the start it maintained close contact with the Sandinista army and over the years became an integral part of Sandinista defenses along the border with Costa Rica. The Nicaraguan government supplies the unit with training, uniforms, arms and food, and in return the unit carries out military actions against Nicaraguan resistance forces operating along the Nicaragua-Costa Rica border.

Arming for the revolution. While Panama and Venezuela were providing aid to the anti-Somoza opposition through Costa Rica in 1979, Cuba with the aid of corrupt Costa Rican officials established its own clandestine arms supply network for the Sandinistas. This network was later used to supply the Salvadoran insurgency and internal Costa Rican leftist groups.

The circumstances surrounding the shipments were established by a Special Commission created in June 1980 by the Costa Rican legislature to investigate charges then circulating that after the Nicaraguan civil war a black market had developed in connection with war materiel left behind in Costa Rica[1]. During the course of its investigation, the commission discovered the shipments from Cuba.

Then-President Rodrigo Carazo of Costa Rica first denied that the flights had occurred when questioned by the commission on November 4, 1980, but later admitted them. On March 25, 1981, five Costa Rican pilots publicly admitted their participation in the transshipment of arms from Cuba, and gave details of the operations and the names of the Cuban and Costa Rican officials involved in supervising the clandestine flights[2]. The commission established that a total of at least 21 such flights were made, most of the shipments arriving at a secondary airport, in Liberia, removed from public scrutiny.

Many of the weapons flown in by the Cuban airlift were diverted to the insurgency in El Salvador. The pilots in their 25 March statement recalled that in one of the trips to Cuba, Manuel Pineiro of the Cuban Communist Party's America Department asked whether they would be willing to fly arms to El

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cadre in the "internationalist" brigade in 1983. In March 1985, *La Republica* in San Jose ran a story on 100 Costa Ricans training in Cuba and Nicaragua, and quoted Security Minister Benjamin Piza as saying "we have always heard of the possibility that there are groups harboring such a line of operation. We will do everything possible to neutralize them". See *La Republica*, San Jose, March 14, 1985, as reported by *FBIS*, March 25, 1985. In May 1985, *La Nacion* in San José quoted MRP leader Sergio Erik Ardon that "there are presently Costa Ricans fighting at the side of the Sandinista forces, just as there are in the counterrevolutionary groups".

[1] Report on arms trafficking issued by a special Costa Rican legislative commission on May 14, 1981. The report is the basis for the following comments. *La Nacion*, May 15, 1981, as reported by *FBIS*, June 12, 1981. Also see "Arms Scandal is Charged in Costa Rica", *New York Times*, May 21, 1981.

[2] ACAN-EFE, March 24, 1981, as reported in *FBIS*, March 26, 1981. During the months leading up to the overthrow of Somoza in July 1979, a group of officers of the America Department of the Cuban Communist Party played a major role in the Nicaraguan revolution. A number of America Department officers were assigned to Costa Rica, and were responsible for moving arms and men into Nicaragua from Costa Rica. This group was headed by Julian Lopez Diaz, a senior intelligence officer, who became Cuba's ambassador to Nicaragua less than two weeks after Somoza's fall. Lopez and his associates moved freely throughout Costa Rica during this period thanks to safe conduct passes issued them by Minister of Public Security Juan Jose Echeverria Brealey.

Salvador[1]. The legislative commission traced three shipments to El Salvador through Costa Rican territory between 1980 and 1981.

Importantly for the Costa Ricans, the commission confirmed that a substantial number of these weapons remained in Costa Rica after the fall of Somoza. The minister of public security in 1979 was Juan José Echeverria Brealey — a man with close ties to Cuba, and now the leader of the Radical Democratic Party. The commission in its May 1981 report held Echeverria responsible for the fact that "there were no controls over the war matériel that entered the country" and for the "disappearance" of war material from State arsenals, including 2,018 firearms.

The commission concluded that the imported weapons had been widely distributed inside Costa Rica. It reported that "weapons of war" had been confiscated from various private homes, including properties owned by Echeverria. Nine months later, on March 25, 1982, another cache of arms was found in the house of Mora Valverde, the leader of the PVP. At the time of the seizures he claimed that the weapons were for "self-defense"[2].

The supply network, once in place, continued to operate for some time after the air shipments from Cuba had ceased. In March 1982 Costa Rican security forces raided a safehouse in San José, arresting nine persons including two Nicaraguans in connection with an arms trafficking operation to El Salvador. About 175 weapons were seized including 70 M-16s, 50 of which were traceable as rifles originally shipped to Vietnam[3].

Terrorism: 1981-1985. The new orientation of Costa Rican radical groups helped set off a wave of violence inside the country over the next few years. Many of the terrorist acts, however, were attributable to external forces. While hiding behind a screen of legitimate international relations, Nicaragua took actions which were clearly meant to intimidate the Costa Rican Government.

The initial terrorist act took place in March 1981: an attack on a vehicle carrying a Costa Rican driver and three United States embassy security guards. It was followed in June 1981 by the killings of three policemen and a taxi driver. Both attacks were traced to a radical splinter group from the Marxist People's Revolutionary Movement (now known as the New Republic Movement), whose leader Sergio Erik Ardon has close ties to Cuba and Nicaragua and who at the time of the attacks stated that the terrorism could be explained, if not justified, in terms of the injustices of Costa Rican society. Ardon was the only Costa Rican political leader not to condemn the attacks as terrorism[4].

Actions more clearly linked to external support followed:

Six armed persons — including Nicaraguans affiliated with the Sandinistas — were arrested in July 1981 crossing the Nicaraguan border into Costa Rica on a mission to seize the Guatemalan embassy in San Jose and demand the release by Guatemala of convicted terrorists[1].

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[1] It became public knowledge that, with Cuban financial support and guidance and assistance from Fernando Comas, an America Department officer assigned as a consular official in Costa Rica, the Chilean Fernando Carrasco (a member of Chile's Movement of the Revolutionary Left — MIR) became the leading figure in a sophisticated air-support operation to provide arms and ammunition to insurgents in El Salvador. By virtue of his position as the head of several air express companies, including one based in Costa Rica, Carrasco handled logistical details for supply missions. Carrasco initially based his operation in Costa Rica and later changed the venue to Nicaragua.

[2] *Costa Rica: A Country Study*, *op. cit.*, p. 254. The police found firearms, dynamite and fragmentation grenades in his possession.

[3] *La Nacion*, San José, March 16-21, 1982, *passim*.

[4] The activities of the group attracted considerable media coverage in Costa Rica. For details on the police investigation of the group see broadcasts of Radio Reloj, San José, as reported in *FBIS*, June-August 1981, *passim*. The terrorists had connections to Uruguayan Tupamaros, Cinchoneros and the FMLN.

On January 19, 1982, two Salvadoran PRTC members, José Marroquin and Jonathan Rodriguez, were arrested in Costa Rica in connection with an attempted kidnapping of a Salvadoran businessman. They later told Costa Rican police that they passed first through Nicaragua, where they and others were provided with false identity documents to enter Costa Rica. Marroquin told a Costa Rican court on February 4, 1982, that he "received military and political training" during the several months he spent in Nicaragua[2].

In November of the same year, the Costa Rican branch of the Central American Revolutionary Workers' Party (PRTC) seriously wounded a Japanese businessman — who later died — in a botched kidnapping attempt. Two Salvadorans, a Honduran and two Costa Ricans were arrested in connection with the attempted kidnapping[3].

Three Nicaraguan embassy officials were expelled from Costa Rica on July 28, 1982, for their involvement in the July 4 bombing of the San Jose offices of SAHSA, the Honduran national airline. Costa Rica's investigation of the case implicated a Colombian terrorist recruited by Nicaraguan embassy officials in Costa Rica. One of the three Nicaraguan diplomats was arrested at a clandestine meeting with the Colombian[4].

Terrorist actions on Costa Rican soil peaked in 1982 but did not end. Members of the New Republic Movement were responsible for a major bank robbery in Guanacaste province in February 1985. When they were arrested, they were found to have collected information on the movements of United States embassy personnel in Costa Rica as well as those of Costa Rican officials and other foreign diplomats[5].

Attacks on Nicaraguans in Costa Rica. Much of the terrorism experienced by Costa Rica was directed at elements of the Nicaraguan opposition who have sought refuge in Costa Rica. In February 1982 an attempt was made to assassinate Fernando Chamorro, formerly a prominent anti-Somocista, now an anti-Sandinista[6]. The principal suspect in the case was the Nicaraguan consul in the town of Liberia, but by the time police sought him out he had returned to Nicaragua. On 6 October, 1982, an Argentine associated with the Nicaraguan opposition was kidnapped off the streets in Costa Rica. He later appeared on Nicaraguan television for a public "confession". He was never heard from again[7].

In April 1983, a Basque terrorist infiltrated from Nicaragua was arrested in connection with a plot to kill Eden Pastora, a former Sandinista commander[8]. On June 29, 1983, one FSLN member was killed and another Nicaraguan injured when a bomb they intended for the opposition leaders exploded prematurely[9].

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[1] Radio Reloj, San José, July 6, 1981, as reported in *FBIS*, July 8, 1981.

[2] State Department unclassified cable San Jose 5710, August 23, 1982.

[3] Broadcast by Radio Reloj, San José, November 9, 1982, as reported in *FBIS*, November 10, 1982. Also see State department cable *San José* 7701, November 12, 1982.

[4] Broadcast by Radio Reloj, San José, July 28, 1982, as reported in *FBIS*, July 29, 1982. Also included in *Calendario de Incidentes Entre el Gobierno de Costa Rica y el Gobierno de Nicaragua*, February 1985.

[5] Classified diplomatic correspondence.

[6] State Department unclassified cable *San José* 4835, June 23, 1984.

[7] *La Nacion*, San José, various stories October-December 1982.

[8] "Cien Etarras en Nicaragua", *Cambio 16*, Madrid, October 3, 1983, p. 22.

[9] "Bomb Kills Nicaraguan in Costa Rica", *Washington Post*, June 30, 1983, p. A-35.

In November 1984, an attempt was made on the life of another opposition leader, Alfonso Robelo, with a fragmentation grenade[1].

Attempted intimidation. Not surprisingly, Costa Rica's relations with Nicaragua, Cuba and the Soviet Union deteriorated after 1979. Consular relations with Cuba were severed in May 1981. In November 1982 the Monge administration asked Moscow to withdraw 17 of the 25 officials at its embassy in San José. The Soviets had been active promoting labor strife inside Costa Rica since 1979[2].

In the case of Nicaragua, approximately 90 incidents involving diplomatic protests were recorded before Costa Rica ordered Nicaragua on February 19, 1985, to reduce its Embassy personnel from 47 to 10[3]. The Sandinista attempts to intimidate the Costa Rican Government began as early as 1980, two years before former-Sandinista Eden Pastora began his armed resistance to the régime on its southern borders. In October 1980, Sandinista forces fired on Costa Rican vessels engaged in medical missions on the San Juan River which partially divides the two countries. In 1982, Nicaragua's challenge to Costa Rica's rights on the San Juan became more sustained and in June and July 1982 several tourist boats on the river were intercepted. In 1983, units of the EPS began regular incursions into Costa Rican territory.

The seriousness of the incidents between Costa Rica and Nicaragua, if anything, has deepened this year. On May 31, 1985, a Costa Rican Civil Guard unit on border patrol was fired on by Sandinista army troops. Two guards were killed and nine were injured. Sandinista units continued to bombard the area well after their unprovoked attack, making it difficult to retrieve the bodies[4].

III. The Collective Response

The five Central American countries have agreed on the following objective:

> "To promote national reconciliation efforts wherever deep divisions have taken place within society, with a view to fostering participation in democratic political processes in accordance with the law." (The Contadora *Document of Objectives*, Panama City, September 9, 1983.)

July 1979

The July 19, 1979, assumption of power by the Junta of the Government of National Reconstruction (GRN) changed the Central American scene. Several neighboring régimes were concerned at the collapse of Nicaraguan institutions and the looming power struggle within the coalition which had led the uprising that removed Somoza from power. The general attitude in the hemisphere, however — particularly among those States which had contributed materially to the effort to remove Somoza was one of deep satisfaction at the replacement of the Somoza dictatorship with a popularly supported coalition publicly committed to a program of democratic reform.

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[1] See President Monge's condemnation of the attack as recorded by Radio Impacto, San José, November 5, 1984, as reported by *FBIS*, November 8, 1984.

[2] For the break with the Soviets and the Cubans see *Costa Rica: A Country Study*, *op. cit.*, pp. 238-239.

[3] The downgrading of relations with the Sandinistas was precipitated by the violation of the immunity of Costa Rica's embassy in Managua on December 24, 1984, when a Nicaraguan citizen was abducted from embassy grounds. See *Calendario de Incidentes*, *op. cit.*

[4] The incident received international media coverage and was considered serious enough by the OAS to merit an investigation.

Concerns about the role to be played by the Sandinistas in the new government were largely set aside in the interest of providing the support and assistance needed to reconstruct Nicaragua from the civil war[1]. Both Latin American countries and the United States were determined to cooperate in the rebuilding of Nicaragua and the reintegration of that country in accordance with its promises to the OAS into the inter-American system that had played an essential role in the removal of the Somoza régime[2].

Nicaragua's neighbors. Of Nicaragua's immediate neighbors only Costa Rica reacted in a fully positive manner to the removal of Somoza. Costa Rican territory had been available for the supply of weapons from Cuba, Panama, Venezuela and other foreign sources to the anti-Somoza rebels. Costa Ricans hoped that the advent of a popular, democratic government in Nicaragua had finally freed Costa Rica from a long-standing military threat to its democratic, unarmed status, and given it a new partner in the protection and advancement of democracy in Central America.

The reactions of the Governments in Honduras and El Salvador were cautious. Neither had opposed the OAS resolution which stripped the Somoza régime of its legitimacy. But the strong position of the FSLN, which they saw as an agent of "International Communism", was a source of real fear. The Government of El Salvador, in particular, feared the influence and impact of the Sandinistas on El Salvador's troubled internal situation.

The United States. Contrary to many popular misconceptions, the United States had since mid-1978 directed its efforts toward facilitating a peaceful resolution to the conflict. Hoping to ensure that Somoza would not be followed by an equally repressive régime, the United States participated actively in an OAS-endorsed mission that sought to avoid violence.

Consistent with this policy goal, the United States viewed with concern the role of the Sandinista Front in the military events culminating in Somoza's ouster. Nonetheless, the presence on the five-member Junta of Violeta de Chamorro (widow of Pedro Joaquin Chamorro, editor of *La Prensa*) and prominent businessman Alfonso Robelo, both of whom were unquestionably committed to democracy, gave the United States and other countries of the hemisphere reason to believe that the Junta's announced program and its promises to the OAS would be honored.

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[1] The United Nations estimated that 45,000 people had been killed, 160,000 wounded and 40,000 orphaned in the fighting in Nicaragua, the great majority in the ten months preceding Somoza's fall. It estimated as well that one million Nicaraguans were in need of food and 250,000 of shelter. Economic losses approached $2 billion, and the Nicaraguan economy was completely disrupted. Statement by Assistant Secretary of State Viron Vaky before the Subcommittee on Inter-American Affairs of the Senate Foreign Relations Committee, September 11, 1979, *American Foreign Policy Basic Documents 1977-1980*, pp. 1321, 1323. The OAS Inter-American Commission on Human Rights provided estimates which, though slightly lower, confirmed the massive scale of death and destruction. It estimated 35,000 deaths (80 per cent civilian), 100,000 wounded and 40,000 orphaned. By its estimates, 40 per cent of the country's population was dying of starvation. Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in the Republic of Nicaragua*, OAS Document, OAS/Ser.L/V/II.53, doc. 25, June 30, 1981, p. 155.

[2] The Junta conveyed its July 9 program to the OAS on July 12, and included commitments to democracy, pluralism ("full participation . . . [of] all sectors of the country . . . in the political structures . . . of the nation . . ."), a mixed economy, a non-aligned foreign policy, full observance of human rights, and the holding of free municipal and national elections. That these undertakings were made directly to the OAS as well as to the Nicaraguan people was especially appropriate in light of the unprecedented OAS action, joined in by the United States, depriving the Somoza government of legitimacy even before Somoza had abandoned the instrumentalities of power. Resolution II of Seventeenth Meeting of Consultation of Ministers of Foreign Affairs, June 23, 1979.

1979-1980

The fall of Somoza increased the appreciation in neighboring countries of the need for substantial reform. At the same time, however, actual and potential guerrillas throughout Central America were encouraged by the Sandinista example to believe that they too could, with sufficient external support, succeed in shooting their way into power. This was particularly the case in El Salvador and Guatemala. The United States, despite major misgivings about developments in Nicaragua, embarked on a major program of economic assistance to Nicaragua[1]. The inter-American and international community as a whole took a similar approach of large-scale assistance to enable the new régime to overcome the civil war's destruction.

Nicaragua's neighbors. On October 15, 1979, a coup led by reformist officers overthrew the régime of General Carlos Humberto Romero in El Salvador. Three months later a new Junta was formed, with the participation of the Christian Democratic Party. By March 1980 a civil-military Junta headed by José Napoleon Duarte had begun a series of major social and political reforms designed to address ills which had provided much of the appeal of the anti-government guerrillas, and to demonstrate that serious and effective reform could be achieved without civil war. Those reforms encompassed land redistribution, basic changes in the banking and commercial sectors, and opening the political system. The Junta committed itself to the holding of free elections for a constituent assembly[2]. Disturbances by groups encouraged by the Sandinista success peaked in the spring of 1980, but by summer, as the newly united guerrilla forces began to prepare for their January offensive, the reforms began to take hold and several strike calls received only limited support.

Honduran social and political tensions, while significant, were less polarized than those in El Salvador or Nicaragua, and the military government did not abuse civil rights. There had not yet developed a pattern of violent political extremism or armed anti-government activity. The first step in the return to democratic civilian rule announced by the Honduran military government was the popular election of a constituent assembly in April 1980.

The United States. Between July 1979 and January 1981, the United States provided more than $100 million in economic assistance to Nicaragua. It encouraged other Western countries to provide major assistance as well, and urged private banks to reach a rescheduling agreement with Nicaragua. It offered to reinstate a Peace Corps program to assist in Nicaraguan reconstruction and to help meet that country's need for teachers and medical care[1] as well as a military training program to assist in the professionalization of its armed forces following the dissolution of the National Guard. Both offers were refused, as was a Costa Rican offer of teachers. The Sandinistas gave priority to obtaining both teachers and military assistance from Cuba[2].

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[1] The United States had provided 732 tons of food and a large supply of medicine to the Nicaraguan Red Cross by the time the White House announced, on July 27, a further program of emergency food and medical assistance to Nicaragua. The United States provided a total of $48 million in assistance to Nicaragua by the end of 1979. As noted below, a further $75 million was provided in special legislation proposed by the President in November 1979. For a more extensive account of the efforts made to develop close relations with Nicaragua following the July 19 takeover, see Lawrence E. Harrison, "We Tried to Accept Nicaragua's Revolution", *Washington Post*, June 30, 1983, p. A27.

[2] On October 15, 1980, one year after taking power, the Junta announced a schedule for constituent assembly and presidential elections. Implementation of this schedule culminated with the election of President Duarte in 1984 followed by legislative and municipal elections in March 1985.

In late 1979, the Administration proposed a special appropriation of $80 million in assistance for Central America; $75 million — over 90 per cent — of this assistance was to be provided to Nicaragua. Concerns in Congress about Sandinista activities led to a requirement that, before disbursing assistance to Nicaragua, the President certify that Nicaragua was not "aiding, abetting, or supporting acts of violence or terrorism in other countries"[3].

In the middle of 1980, the United States began to receive reports of Sandinista involvement in logistical support — including provision of arms — for guerrillas in El Salvador. While these reports were at first fragmentary and difficult to confirm, they gave rise to increasing concern about the role the Sandinistas intended to play in Central America. The United States Ambassador to Nicaragua was instructed to raise this issue with the government of Nicaragua and to urge that any material support for the FMLN cease[4]. Nicaraguan officials denied any "governmental" involvement, but asserted that the government of Nicaragua could not be held responsible for the activities of individual Nicaraguans[5].

Despite the reports of involvement by high-ranking and individual FSLN members in furnishing arms and training to Salvadoran guerrilla groups, on September 12, 1980, the President made the certification required by the special assistance legislation. This decision was taken on the basis that the information then available was not "conclusive" as to Nicaraguan government involvement in terrorist activities[6]. While some officials believed that the accumulation of evidence was such as to preclude certification, the decision was made that the overriding United States interest in attempting to retain a positive relationship with the new government in Nicaragua would be best served by viewing the evidence as inconclusive. The resulting certification made possible disbursement of $75 million in economic assistance to Nicaragua.

The decision to certify was accompanied by a decision to send the Deputy Assistant Secretary of State for Central America to Managua to ensure that the government of Nicaragua was aware that continuation of the support for the Salvadoran guerrillas would have a negative impact on United States-Nicaraguan relations. He emphasized the United States' desire to preserve good relations with Nicaragua, but made clear to his interlocutors that provision of support to Salvadoran guerrillas could force the United States to terminate the assistance program. The officials with whom he met, including Daniel Ortega and other members of the Junta, Foreign Minister d'Escoto, and Comandantes Bayardo Arce, Humberto Ortega and Jaime Wheelock, promised that all steps would be taken to ensure that such activities did not occur[1].

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[1] Details of diplomatic exchanges described below are drawn in part from classified cable traffic and other records of the Department of State.

[2] The first Cuban military advisors arrived in Managua in July 1979. By the end of the year, there were some 1,400 Cuban teachers and medical personnel and over 200 Cuban military and political advisors in Nicaragua. By mid-1981, United States intelligence indicated there were no less than 5,000 Cubans in Nicaragua, of whom 600 to 800 were military and security advisors and the rest teachers, doctors and "internationalist" workers.

[3] Sec. 536 *(g)* of the Special Central American Assistance Act of 1979, P.L. 96-257, approved May 31, 1980. Section 536 *(g)* was later redesignated as section 533 *(f)* of the Foreign Assistance Act of 1961, as amended.

[4] Classified diplomatic correspondence.

[5] *Ibid.*

[6] The operative portion of the President's certification stated simply

> "I hereby . . . certify, pursuant to section 536 *(g)* of the Act and on the basis of an evaluation of the available evidence, that the Government of Nicaragua 'has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries' . . ." (Presidential Determination No. 80-26, September 12, 1980, 45 *Federal Register* 62779.)

1981-1982

The "final offensive" of January 1981 in El Salvador was premised on overwhelming the Salvadoran armed forces at a time when the United States was in transition between the Administrations of President Carter and President Reagan. (Indeed, on January 9 *Radio Liberacion*, an FMLN radio station operating out of Nicaragua, boasted that the new United States president would come to office too late to stop the guerrilla victory[2].) On January 17, the Carter Administration announced a package of $5 million in military assistance to El Salvador. The United States also suspended assistance to Nicaragua because of intelligence information demonstrating Nicaraguan supply to the Salvadoran guerrillas.

Nicaragua's neighbors. Following the failure of the "final offensive", the Salvadoran Junta continued political and social reforms along with the military effort against the FMLN. The military assistance provided by the United States was subject to severe restrictions and conditions designed to encourage the security forces to professionalize themselves and to end human rights abuses[3]. Elections for a constituent assembly were held in March 1982. Parties associated with the FMLN refused to participate in the elections. The FMLN tried to disrupt the elections by destroying voting records, intimidating voters, mining roads and burning buses.

Honduras held legislative and presidential elections in November 1981. The transition to democratic government culminated with the inauguration of an elected, civilian president in January 1982. Honduran concerns focused on the alarming Nicaraguan military buildup[4] and continuing Sandinista army operations across the border in Honduras[1]. Honduran efforts to close down the land arms-trafficking route from Nicaragua to El Salvador removed a major incentive for Nicaragua's earlier relative restraint toward Honduras and increased the threat of direct attacks against Honduras by the Nicaraguan armed forces. At the same time, Honduras realized the threat to its own institutions posed by the Sandinistas and by the Sandinista-supported terrorist groups becoming active within Honduras. The United States expanded assistance to the Honduran Government to develop the capacity of its armed forces to defend Honduras against a Sandinista military attack[2].

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[1] Classified diplomatic correspondence.

[2] The clandestine *Radio Liberacion* broadcast from Nicaragua its attack on the "cowboy president" of the United States on January 9, 1981. See *FBIS*, January 12, 1981.

[3] In fiscal years 1981 and 1982, United States economic and development assistance (Development Assistance, P.L. 480 food aid, and Economic Support Funds) totalled $290 million. Security assistance (Military Assistance Program, Foreign Military Sales and International Military Education and Training) totalled $117 million for the same two years.

Economic Support Funds (ESF) are classified in the budget as security assistance rather than development aid. The principal criterion for their use is the strategic importance of the recipient to the United States, a criterion differing from the standards applicable to distribution of development assistance. ESF is used almost exclusively for balance of payments support and other non-military economic support purposes.

[4] By early 1982, the Sandinista People's Army was dominant in any direct comparison of Nicaraguan and Honduran forces; Honduras preserved an advantage only in air power. By 1982, Nicaraguan active duty military personnel numbered 21,500, with an additional 50,000 border, militia and reserve personnel; the Honduran armed forces numbered 12,000, with a 3,000-member security force. By late 1981, the Sandinista armed forces had acquired 152mm and 122mm long-range artillery, T-55 tanks, armored personnel carriers, and SA-7 anti-aircraft missiles. The Honduran armed forces had no long-range artillery, no modern tanks and no anti-aircraft missiles. The Sandinista advantage has continued to grow since that time, despite substantial United States assistance to Honduras and an expansion of Honduran military forces to meet the Nicaraguan threat.

Costa Rica became increasingly concerned by the progressive takeover of the Nicaraguan government by the Sandinistas and the crackdown on opposition groups. Nicaraguan forces increased the frequency and seriousness of their border incursions, against which Costa Rica, which has a small, lightly armed civil and rural guard force, realized it could offer no effective military defense on its own.

The United States. In January 1981 and the months that followed, the United States on repeated occasions insisted through diplomatic channels that Nicaragua cease its material support for the FMLN[3]. In repeated approaches to Nicaraguan leaders, the United States stressed that, while it understood Nicaraguan sympathies for the Salvadoran guerrillas, good relations with the United States depended on an immediate halt to the provision of material and logistical assistance to the FMLN. The United States identified specific support activities within Nicaragua, including use of the Papalonal airstrip and Sandino airport to supply the FMLN and support for *Radio Liberacion*.

At the same time, the United States offered Nicaragua "a way out" of the difficult situation created by its assistance to the FMLN, should it demonstrate that it was in fact cutting off that support. While frequently insisting that they could not control activities by every individual Nicaraguan, Junta members and other Nicaraguan officials stated that they were taking "strong measures" to prevent the "funny business" at the airfields and other "unofficial activities" and were pursuing the *Radio Liberacion* problem[4].

In mid-February 1981, on instructions from Washington, the United States ambassador to Nicaragua again reviewed the situation with Junta members

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[1] Nicaragua made no pretense that these incursions were errors, but rather justified them as pursuit of "Somocista ex-Guardsmen". According to Honduran government records, the Sandinista People's Army crossed Honduras' borders 35 times in 1981 and 68 times in 1982.

In March 1982 Honduras proposed a Central American peace plan in the OAS. Its principal elements, reflecting Honduras' own experience with the Sandinistas in the three years since the ouster of Somoza, were (1) reduction in arms and foreign military advisors; (2) respect for non-intervention; and (3) international verification of commitments. This plan drew only limited support at the time, but its three elements were reflected as key objectives in the Contadora Document of Objectives adopted on September 9, 1983.

[2] United States military assistance to Honduras rose from $8 million in fiscal year 1981 to $31 million in fiscal year 1982.

[3] On January 9, the eve of the "final offensive", the United States ambassador reminded Comandante Borge of the government's promises not to become involved in the Salvadoran conflict, warning that the first casualty of any such action would be United States-Nicaraguan relations. He was assured that that policy had not changed. Borge acknowledged the possibility that some arms might have passed through Nicaragua and some people connected with the government might have assisted in some way, but insisted that Nicaragua was acting responsibly, and had even recently intercepted a truckload of arms passing from Costa Rica to El Salvador. (Classified diplomatic correspondence.)

[4] It is significant that these high-ranking officials no longer, as during the previous Fall, attempted to deny the activities taking place in Nicaragua or to suggest that they were unable to control them.

Daniel Ortega and Sergio Ramirez. He noted that evidence available to the United States confirmed that supply to the FMLN was continuing despite previous clear promises by the Sandinistas. He made clear — in view of the fact that Nicaragua's previous assurances that it would not support the FMLN had proven false — the United States' intention to monitor the situation to ensure that these actions were taken. He stated that the United States would expect the Nicaraguans to provide evidence that they had carried out their undertakings. He specifically identified a number of actions which the United States would consider evidence of Nicaraguan good faith.

The Nicaraguans were informed that the United States had decided to withhold new disbursement of United States assistance until it was satisfied that Sandinista supply to the FMLN had halted. This decision constituted, in effect, a provisional determination that the certification requirement of the assistance legislation was no longer met. The United States decision as to whether Nicaraguan actions would permit the continuation of aid would be based on the situation in one month's time; if the Nicaraguan response were not satisfactory, a public determination leading to a formal cut-off of assistance would be forthcoming.

In reply, Junta members Ortega and Ramirez replied that the FSLN Directorate had authorized them to state that they understood United States concerns about El Salvador, would not "risk our revolution for an uncertain victory in El Salvador" and had taken a firm decision not to permit Nicaraguan territory to be used for transiting arms to El Salvador. Orders had been given to interdict the arms flow. Ortega acknowledged that the credibility of the Nicaraguan government was at stake, and that the Sandinista Front understood the consequences of the commitments it had made. These promises were reiterated later in February and in early March 1981[1].

In the immediate aftermath of these meetings, United States intelligence indicated that arms traffic through established routes, particularly by air, from Nicaragua to El Salvador had slowed if not stopped, but that other routes from Nicaragua were being sought. The United States continued to press for concrete and verifiable actions. Intelligence reporting and evidence continued to mount that the FSLN was engaged in continuing supply efforts as well as accumulating in Nicaragua arms for the FMLN.

Faced with this additional evidence, the United States concluded that it could no longer certify that Nicaragua was not engaged in support for terrorism abroad. On April 1, 1981, the President made a determination to that effect, thereby formally suspending disbursement of the final $15 million in assistance made available the previous year. Even then, however, in the interest of preserving the best possible relations under the circumstances, the President waived the provision of law which would otherwise have required the immediate repayment of all economic support fund loans made to Nicaragua[2].

With these events, United States/Nicaraguan relations entered a new stage.

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[1] On February 17, Ortega promised that "not a single round" would transit Nicaragua thereafter, and acknowledged that they had theretofore been "very permissive in allowing the FMLN to mount operations in Nicaragua". He asserted in early March that the FMLN had been told of the FSLN decision to end its involvement. While acknowledging that United States economic assistance would probably not continue, the Sandinistas expressed a desire to preserve a cordial relationship with the United States. (Classified diplomatic correspondence.)

[2] On April 1, the Department of State released a statement announcing the President's decision to terminate Economic Support Fund assistance under the law. Nicaragua was informed of this decision at the same time. Citing "recent favorable trends" with respect to Nicaraguan support for the FMLN and the importance of continuing assistance to

While Sandinista actions had forced the United States to cut off assistance to Nicaragua, the United States continued efforts to reach an accommodation with the Sandinista régime which would halt Nicaragua's supply of arms and other support to the Salvadoran guerrillas.

In August 1981, the United States Assistant Secretary of State for Inter-American Affairs presented Nicaragua with a five-point proposal for improved relations. This proposal was designed to meet Nicaragua's concerns with United States policy, including its expressed fear of a United States invasion and desire that Nicaraguan exile groups in the United States and elsewhere should be tightly controlled, while also addressing the Nicaraguan actions most troubling to the United States. The United States proposal, based upon an end to Sandinista support for guerrilla groups, called for both sides to make public declarations of non-intervention in Central America; a United States statement on the enforcement of United States law pertaining to the activities of Nicaraguan exile groups in the United States[1]; an end to the Nicaraguan military buildup; reestablishment of United States economic assistance; and expansion of cultural ties between the two countries[2]. In October, the Sandinistas rejected this proposal as "sterile", at the same time renewing their assertions that the Nicaraguan government was not supporting the FMLN[3].

At the urging of the President of Mexico, the United States made a second attempt in April 1982. The previous five points were expanded to call for (1) an

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moderate forces within Nicaragua, the official Department of State statement held out the further possibility of resuming P.L. 480 food assistance, development assistance and Economic Support Funds should the situation in Nicaragua improve. (*American Foreign Policy: Current Documents 1981*, p. 1298.) The President's formal determination was made on April 14. (Presidential determination No. 81-5, April 14, 1981, 46 *Federal Register* 24141.) A 1982 United States offer of some $5 million in assistance for non-governmental organizations was rejected by the government of Nicaragua in August of that year.

[1] Nicaragua had expressed concern about anti-government activities of Nicaraguans who had fled to the United States and countries neighboring Nicaragua. By this date, it is clear that such groups, unvaryingly characterized as "Somocista" regardless of the actual views of their members, were engaging in preparations for armed activity against the Sandinista régime. The preparations had not yet led to significant attacks in Nicaragua, however.

[2] The description later given of Assistant Secretary Enders' demarche by Arturo Cruz, then Nicaragua's ambassador to the United States, is instructive:

> "In August of 1981 . . . [Enders] met with my superiors in Managua, at the highest level. His message was clear: in exchange for non-exportation of insurrection and a reduction in Nicaragua's armed forces, the United States pledged to support Nicaragua through mutual regional security arrangements as well as continuing economic aid. His government did not intend to interfere in our internal affairs. However, 'you should realize that if you behave in a totalitarian fashion, your neighbors might see you as potential aggressors'. My perception was that, despite its peremptory nature, the United States position vis-à-vis Nicaragua was defined by Mr. Enders with frankness but also with respect for Nicaragua's right to choose its own destiny . . . When the conversations concluded, I had the feeling that the United States proposal had not been received by the Sandinistas as an imperialist diktat. However, nothing positive developed . . ." (Arturo J. Cruz, "Nicaragua's Imperiled Revolution", *Foreign Affairs* (Summer, 1983), pp. 1031, 1041-1042.)

[3] Barely one month earlier, however, Directorate member Bayardo Arce had stated to the United States chargé d'affaires in Managua that the United States "had better realize that nothing you can say or do will ever stop us from giving our full support to our fellow guerrillas in El Salvador". At the same time, Arce expressed concern about the "Halcon Vista" exercise announced in September. "Halcon Vista" that year involved 800 United States personnel and was held October 7 to 9, 1981, off the Caribbean coast of Eastern Honduras. It was the latest in a series of many years' standing in which United States and Latin American military forces cooperated in small-scale exercises.

end to Nicaraguan support for insurgencies in other countries; (2) a United States pledge to enforce laws pertaining to exile activities in the United States; (3) a joint pledge of non-interference in each other's affairs or in the affairs of others in the region; (4) a regional, reciprocal ban on imports of heavy offensive weapons; (5) a reciprocal reduction of foreign advisors in the region; (6) international verification of the foregoing points; (7) exchange of cultural groups; and (8) the reaffirmation of previous commitments by the Sandinistas to pluralism, free elections, non-alignment and a mixed economy. The United States made clear that a halt to Sandinista support for subversion beyond its borders was the *sine qua non* for achieving results on the other elements of the proposal[1].

Nicaragua responded by taking refuge in procedure, demanding that the talks take place at a higher level and that the Mexican Government be drawn into the dialogue, but avoiding any comment on the substance of the proposals. Building on continued denials by Nicaragua of involvement in El Salvador and assertions that Nicaragua wished to "fulfill its international obligations", the United States also requested that Nicaragua demonstrate its desire to engage in serious efforts to resolve regional problems by closing down the command and control center of the FMLN operating out of Nicaragua.

The United States response during this period was not confined to its continuation of diplomatic approaches to Nicaragua. Expanded economic assistance and support for strengthened defense efforts were provided to both El Salvador and Honduras. At the same time, the Sandinistas' repeated rejection of United States diplomatic efforts led to concern by the United States that a policy confined to diplomatic representations could not be effective in modifying Nicaraguan behavior, and forced consideration of alternative means of achieving that objective.

Resistance forces[2] began to take on importance for the broader effort to counter Sandinista "internationalism". For those concerned with Nicaragua's intervention in neighboring countries, the significance of the resistance groups lay in the pressure that their operations could bring on the Sandinistas to turn their attention away from subversion beyond Nicaragua's borders and reduce the availability of material to be sent to the FMLN. The growth of armed resistance by other Nicaraguans would make clear to the Sandinistas that they could no longer count on conducting paramilitary and military operations outside Nicaragua without feeling the consequences within Nicaragua.

The San José Declaration. In October 1982, under Costa Rican leadership, a new, multilateral approach was undertaken by seven democracies from the region, including the United States[3]. The Declaration of San José reflected the growing conviction of these countries that the Central American conflict could not be addressed effectively without dealing with the full range of underlying problems which gave rise to the crisis. The declaration set forth a series of simple principles describing conditions necessary for an effective peace agreement in Central America: (1) to free the area from East-West competition, foreign military advisors and trainers should be removed; (2) to free Central American countries from fear of each other's aggression, the import of heavy weapons should be banned, support for insurgency on neighbors' territory should be prohibited, and frontiers should be subject to international surveillance; (3) democratic institutions open to opposition elements should be established. President Reagan personally endorsed these proposals in San José in 1982 and before a Joint Session of Congress on April 27, 1983.

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[1] These proposals were discussed in a State Department background press briefing. *American Foreign Policy: Current Documents 1982*, p. 1437.

[2] The goals of the resistance groups varied, but were identical in their adherence to the key elements of the original program on which the Government of National Reconstruction had come to power. See Appendix 4. Some of the groups in Zelaya were largely drawn from indigenous Indian and Creole populations, and their goals emphasized retention of the autonomy and traditional systems that were being threatened by Sandinista policies.

[3] The Declaration was issued by Belize, Colombia, Costa Rica, El Salvador, Honduras, Jamaica and the United States. Text of Final Act reprinted in *American Foreign Policy: Current Documents 1982*, p. 1476.

The seven countries asked Costa Rica's foreign minister to present these principles to Nicaragua as a basis for dialogue, but the Sandinista government insisted that it would receive the foreign minister only if the discussions were confined "exclusively" to bilateral issues.

1983-1985

The polarization of Central America between Nicaragua and its three immediate neighbors grew more intense during the next three years. Armed opposition within Nicaragua, generated by the policies of the Sandinistas, continued to grow. Nicaragua's neighbors, by contrast, continued to open their political and social systems, and succeeded in reducing the level of violence within their respective borders.

Nicaragua's neighbors. Despite the FDR refusal to participate in elections, and guerrilla efforts to derail them, El Salvador carried out four national elections resulting in an elected president and assembly. The level of political violence from both the extreme left and right declined significantly; death squad activities from the right were at the lowest levels in many years. The newly elected Duarte government declared its readiness to conduct a dialogue with the FMLN. In October 1984, consistent with the Contadora goal of encouraging national reconciliation, President Duarte opened a dialogue with leaders of the FMLN-FDR at La Palma; a follow-up meeting aimed at continuing the dialogue failed due to FMLN-FDR insistence on unconstitutional power-sharing rather than participation in the electoral process. The FMLN had launched an unsuccessful Fall offensive in 1983 but did not even attempt one in 1984. As part of its openly-acknowledged policy of making it impossible to govern the country, the FMLN strategy now focussed almost exclusively on destruction of democratic institutions and economic targets. The Salvadoran Government has repeatedly held Nicaragua responsible for sustaining the FMLN's ability to continue its attacks, in particular the attacks on dams and bridges[1].

Honduras overcame two major Sandinista efforts to initiate guerrilla activity within its borders, as well as constant cross-border attacks by the Sandinista military. To demonstrate United States resolve and willingness to support its regional allies, improve the readiness of United States forces with contingency missions in Latin America and elsewhere and reduce Honduran anxiety over tension on the border with Nicaragua, the United States and Honduras carried out Big Pine I, the first of a series of joint exercises in Honduras, in February 1983[2]. With United States assistance, a Regional Military Training Center (RMTC) for

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[1] Declaration of Intervention of the Republic of El Salvador, Intervention Pursuant to Article 63 of the Statute of the International Court of Justice, case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)*, 15 August 1984, pp. 12-13.

[2] The United States has conducted joint exercises with Honduras for two decades. Since the Big Pine I exercise, eight joint exercises have been held involving United States, Honduran and, on occasion, Salvadoran land and sea forces. The largest of these exercises, Big Pine II in 1984, involved 5,000 United States and several thousand Honduran troops.

Salvadoran and Honduran military personnel and Costa Rican civil guardsmen was established in Honduras in 1983; the RMTC was closed in mid-1985. Costa Rica was forced by Nicaraguan border incursions to expand and modernize its modest Rural and Civil Guard. It made clear, however, its expectation of assistance under the Rio Treaty in the event of overt Sandinista attack[1].

The United States. With the steady political and military progress in El Salvador, controversy sharply declined within the United States over providing major support to the countries of the region[2]. The January 1984 recommendations of the National Bipartisan Commission on Central America, chaired by former Secretary of State Henry Kissinger, for adoption of a long-term program of economic and security assistance for the region were accepted and largely enacted into law by the United States Congress[3].

Increasingly, United States policy attention concentrated on Nicaragua, which appeared unwilling or unable either to address its internal problems or to cease its efforts to intervene in the affairs of its neighbors. While there has been disagreement over how to induce Nicaragua to modify its aggressive policies, the Congress and the Executive have for several years been in agreement that Nicaragua has made possible the continuation of the FMLN's war effort through provision of substantial support for the FMLN, and has fostered and conducted terrorist activities in Honduras and Costa Rica as well[4].

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[1] H. Nelson, ed., *Costa Rica: A Country Study*, discusses Costa Rica's security concerns at pp. 244-257 and 274.

[2] The Congressional findings contained in section 702 of the International Security and Development Cooperation Act of 1985 (P.L. 99-83), demonstrate the change from the time when assistance to El Salvador was considered by many to be support for a corrupt and brutal military dictatorship. Section 702 (*a*) (2), for example, expressed the "sense of Congress" that

> "(A) President Duarte is to be congratulated for his outstanding leadership under difficult circumstances and for his efforts to foster democratic government and institutions in his country . . . ; and
>
> (B) the armed services of El Salvador are to be congratulated for their improved performance and professionalism in defending Salvadoran citizens and their democratically-elected government from attack by armed insurgents . . . ."

[3] Almost the entirety of the funds requested in support of the Commission's recommendations for 1984 and 1985 was approved by the Congress in the Supplemental Appropriations Act for 1984 (P.L. 98-396), the Supplemental Appropriations Act for the Department of Agriculture for 1984 (P.L. 98-322) and the Fiscal Year 1985 Continuing Resolution (P.L. 98-473). Additional funding is provided in the recently enacted International Security and Development Cooperation Act of 1985 (P.L. 99-83).

[4] On March 4, 1982, Chairman Boland of the House Permanent Select Committee on Intelligence stated:

> "The Committee has received a briefing concerning the situation in El Salvador, with particular emphasis on the question of foreign support for the insurgency. The insurgents are well trained, well equipped with modern weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support. The intelligence supporting these judgments provided to the Committee is convincing.
>
> There is further persuasive evidence that the Sandinista government of Nicaragua is helping train insurgents and is transferring arms and financial support from and through Nicaragua to the insurgents. They are further providing the insurgents bases of operation in Nicaragua. Cuban involvement — especially in providing arms — is also evident.
>
> What this says is that, contrary to the repeated denials of Nicaraguan officials, that country is thoroughly involved in supporting the Salvadoran insurgency. That support is such as to greatly aid the insurgents in their struggle with government forces in El Salvador." (Press Release, March 4, 1982.)

While the United States repeatedly made clear that it would respond to concrete and meaningful actions by the Sandinistas with similar action on its own part, United States policy also included a variety of pressures in response to continuing Sandinista aggression. Some of these were economic in nature. In May 1983, Nicaragua's sugar quota was sharply reduced in response to the

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In the Committee's May 13, 1983, report on H.R.2760 (the "Boland amendment"), this conclusion was reaffirmed:

> "At [this] time, the Committee believes that the intelligence available to it continues to support the following judgments with certainty:
>
> > A major portion of the arms and other material sent by Cuba and other Communist countries to the Salvadoran insurgents transits Nicaragua with the permission and assistance of the Sandinistas.
> >
> > The Salvadoran insurgents rely on the use of sites in Nicaragua, some of which are located in Managua itself, for communications, command-and-control and for the logistics to conduct their financial, material and propaganda activities.
> >
> > Nicaragua provides a range of other support activities, including secure transit of insurgents to and from Cuba, and assistance to the insurgents in planning their activities in El Salvador.
> >
> > In addition, Nicaragua and Cuba have provided and appear to continue providing training to the Salvadoran insurgents.
>
> Cuban and Sandinista political support for the Salvadoran insurgents has been unequivocable */sic/* for years. The Committee concludes that similarly strong military support has been the hidden compliment */sic/* of overt support . . .
>
> Another area of serious concern to the Committee is the significant military buildup going on within Nicaragua . . . Considering the small population of Nicaragua two and one half million people and its weakened economic status such a buildup cannot be explained away as solely defensive. Within the Central American isthmus, it poses a potential threat to its neighbors. The substantial Nicaraguan support for the Salvadoran insurgents offers no assurance that the Sandinistas will constrain their growing military might within Nicaragua's own borders." (Permanent Select Committee on Intelligence, Report to accompany H.R.2760 (H.R.Rep. 98-122, Part 1, May 13, 1983), pp. 5, 6.)

The 1983 findings are particularly significant because they were made by the Committee in the context of recommending approval of a bill opposing the Executive branch's policy toward Nicaragua.

In Congressional debate on the Fiscal Year 1985 intelligence authorization bill, Chairman Boland confirmed that the findings remained as "true today, as . . . at the time of that [May 1983] report". *Congressional Record*, August 2, 1984, pp. H8268-8269. The resulting bill contained the following Congressional findings:

> "(1) the government of . . . Nicaragua has failed to keep solemn promises, made to the [OAS] in July 1979, to establish full respect for human rights and political liberties, hold early elections, preserve a private sector, permit political pluralism, and pursue a foreign policy of nonaggression and nonintervention;
>
> (2) by providing military support (including arms, training, and logistical, command and control and communications facilities) to groups seeking to overthrow the government of El Salvador and other Central American governments, the government . . . of Nicaragua has violated Article 18 of the Charter of the [OAS] which declares that no state has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State . . ." (Intelligence Authorization Act for 1984 (P.L. 98-215), s. 109 *(a)*.)

The National Bipartisan Commission on Central America, in its January 1984 report, concluded:

> "Whatever the social and economic conditions that invited insurgency in the region, outside intervention is what gives the conflict its present character . . .
>
> Propaganda support, money, sanctuary, arms, supplies, training, communications, intelligence, logistics, all are important in both morale and operational terms. Without

Sandinistas' continued destabilization of their neighbors. In response to Nicaragua's continued aggressive behavior, as well as Congressional desires that no form of peaceful pressure be left untried before further assistance was provided to the armed resistance, a trade embargo was imposed in May 1985. Bilateral approaches to Nicaragua also continued, but within the context of the comprehensive approach to regional problems proposed by the Contadora Group and expressly agreed to by Nicaragua and the other four countries of Central America [1].

While exercising the full range of non-forceful measures available to it, however, the United States in addition continued to believe that more direct pressures were crucial to stopping Nicaraguan aggression [2]. Congress established limits on the provision of funds for the armed resistance in late 1982 [3]. In fiscal

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such support from Cuba, Nicaragua and the Soviet Union, neither in El Salvador nor elsewhere in Central America would such an insurgency pose so severe a threat to the government . . . With the victory of the Sandinistas in Nicaragua, the levels of violence and counter-violence in Central America rapidly increased, engulfing the region." (Report of the National Bipartisan Commission on Central America, January 10, 1984, pp. 87-88.)

Most recently, in the 1985 foreign assistance legislation, Congress found that, having

> "formally accepted the June 23, 1979 [OAS], resolution as a basis for resolving the Nicaraguan conflict in its [plan] . . . submitted to the [OAS] on July 12, 1979, . . . the government of Nicaragua . . . has flagrantly violated the provisions of the June 23, 1979, resolution, the rights of the Nicaraguan people, and the security of the nations in the region . . ." (International Security and Development Cooperation Act of 1985 (P.L. 99-83), s. 722 *(c)* (2) (A) and (C).)

The legislation cites a variety of events in support of this finding, including that Nicaragua

> "has committed and refuses to cease aggression in the form of armed subversion against its neighbors in violation of the Charter of the United Nations, the Charter of the Organization of American States, the Inter-American Treaty of Reciprocal Assistance, and the 1965 United Nations General Assembly Declaration on Intervention . . .". (S. 722 *(c)* (2) (C) (vi).)

[1] Bilateral diplomatic contacts with ranking Nicaraguan officials were conducted by Assistant Secretary Enders in August 1981; by Ambassador Quainton in April 1982; by Presidential Special Envoy Richard Stone between June 1983 and January 1984; by Stone's successor Ambassador Harry Shlaudeman in April 1984 and on repeated occasions (including eight meetings in Manzanillo) later that year; by Enders' successor Assistant Secretary Langhorne Motley in December 1983, April 1984 (with Shlaudeman) and October 1984; and by Secretary of State Shultz in June 1984 and March 1985.

[2] Confirmation that assistance to the armed resistance has been effective was provided by President Duarte of El Salvador in a letter supporting the United States Administration's April 1985 proposal to provide assistance to the Nicaraguan resistance:

> "We remain concerned . . . by the continuing flow of supplies and munitions from Nicaragua to guerrilla forces . . . which are fighting against my government and our programs of reform, democracy, reconciliation and peace . . . [W]e deeply appreciate any efforts which your government can take to build a broad barrier to such activities . . . efforts which a small country like El Salvador cannot take in its own behalf." (Letter to President Reagan, April 4, 1985.)

[3] After lengthy debate, Congress approved carefully-crafted legislation prohibiting use of funds only

> "to furnish military equipment, military training or advice, or other support for military activities, . . . for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras" (Further Continuing Appropriations Act of 1983 (P.L. 97-377), s. 793.)

year 1984 $24 million were provided to the resistance[1]. A desire to demonstrate to Nicaragua that the United States was prepared to relieve the military pressure should the Sandinistas modify their behavior, among other factors, led to a withholding of support for a year[2]. Sandinista support for the FMLN, its military buildup and its refusal to respond to calls by the Catholic bishops and by virtually every opposition group to enter into a dialogue contributed to a resumption of humanitarian assistance to the democratic resistance[3].

Contadora. Since 1983, diplomatic activity aimed at resolving Central America's problems has focused on the mediation effort begun on Contadora Island in January 1983 by the foreign ministers of Colombia, Mexico, Panama and Venezuela. To allay expressed Sandinista concerns that a multilateral effort involving the United States would be unfairly weighted against Nicaragua, outside parties (including the United States) were excluded from this Latin American mediation effort. Approached privately by Contadora Group countries to request its understanding and support, the United States gave the mediation effort its encouragement.

The thesis of the Contadora Group, like that underlying the earlier San José initiative, is that any hope of reaching a lasting and solid peace both among and within the Central American countries requires that fundamental causes be addressed[4]. The Contadora initiative has therefore taken a comprehensive and integrated approach toward the social, economic, political and security problems underlying the conflicts in Central America.

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[1] The funding was cast in terms of a ceiling on expenditure of more than $24 million

> "for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual". (Intelligence Authorization Act for Fiscal Year 1984 (P.L. 98-215), s. 108.) (Relevant Congressional findings contained in that act are quoted above in note 4, pp. 497-499, *supra*.)

Identical language was contained in the Department of Defense Appropriations Act of 1984 (P.L. 98-212), s. 775.

[2] The Continuing Appropriations Act of 1985 (P.L. 98-473), s. 8066, and the Intelligence Authorization Act for Fiscal Year 1985 (P.L. 98-618), s. 801, contained absolute prohibitions phrased in terms identical to the limitation quoted in the preceding note. Those laws permitted the President, after February 1985, to request renewed funding for the armed resistance of up to $14 million following submission of specific findings and Congressional approval of the request. Reflecting continued concern about Nicaraguan subversion, the first of the required findings on the basis of which Congress indicated a readiness to consider renewal of funding was that

> "the government of Nicaragua is providing materiel or monetary support to anti-government forces engaged in military or paramilitary operations in El Salvador or other Central American countries". (S. 8066 (*b*) (1) (A).)

The President made such a request on April 3.

[3] $27 million was approved for provision to the anti-Sandinista resistance of food, clothing, medicine and other humanitarian assistance; a prohibition on provision of weapons, weapons systems, ammunition or other equipment, vehicles or material useable to inflict injury or death remained in effect. International Security and Development Cooperation Act of 1985 (P.L. 99-83), s. 722 (*g*); Supplemental Appropriations Act of 1985 (P.L. 99-88), Title I, Chap. V. The findings relating to Nicaragua made in P.L. 99-83 are quoted in part in note 4, pp. 497-499, *supra*.

In the same statutes $2 million was made available to help defray immediate expenses of implementation of a Contadora agreement. S. 722 (*h*), Title I, Chap. V.

[4] Although stated more clearly on some occasions than on others, this thesis has been at the heart of every approach to the Central American crisis since the OAS first called for Somoza's replacement by a pluralistic, democratic government. The Junta's program reflected a similar balancing of values, and United States policy in Central America as a whole and toward Nicaragua in particular has been based through both the Carter and the Reagan Administrations on implementation of a range of measures directed at the root problems of the crisis in the region. Despite its ostensible acceptance of the goal of national reconciliation, in its actions Nicaragua has consistently opposed this approach.

Although meetings among the Contadora mediators and the five Central American countries took place in April and May 1983, Nicaragua refused to participate in formal multilateral discussions. Preferring to deal with its neighbors and the United States on a bilateral basis, Nicaragua resisted the concept of developing a single, all-encompassing peace treaty dealing with all aspects of the regional crisis. On July 17, 1983, the Contadora chiefs of state called, in the Cancún Declaration on Peace in Central America, for renewed efforts to continue the peace process. This appeal, sent to the United States and Cuba as well as the five Central American States, was responded to favorably by the United States and the other four Central American States.

On July 19 Nicaragua also officially accepted Contadora's multilateral framework. On that date, however, Junta Coordinator Daniel Ortega announced a diplomatic proposal calling for cessation of all outside assistance to "the two sides" in El Salvador (thus implicitly acknowledging the outside assistance it had been providing) as well as external support to paramilitary forces in the region. The plan proposed a prohibition on foreign military bases and exercises in the region, a Nicaraguan-Honduran non-aggression pact, non-interference in internal affairs and an end to economic discrimination. The proposal ignored the issues of foreign military advisors[1] and the Nicaraguan military buildup.

Democratization, national reconciliation and effective verification, all central to the Contadora approach, were also ignored by the Nicaraguan proposal. Two days later, however, the other four Central American countries joined in presenting a plan emphasizing the importance of democratization to the restoration of peace and stability in the region.

On September 9, 1983, Contadora's most significant achievement to date occurred when the Foreign Ministers of all five Central American States agreed to a 21-point Document of Objectives. This document comprehensively addresses the root problems as well as the major specific concerns of the countries of the region. In the Document, the participants committed themselves to an agreed set of objectives, including political, economic and security concerns, to be reflected in a definitive treaty. In the security field, the Document of Objectives called, *inter alia*, for verifiable steps to end support for external subversion, reductions in the numbers of foreign military and security advisors, a halt to illegal arms trafficking and controls on armaments and troop levels. It emphasized the need for greater regional cooperation in social and economic matters and assistance to refugees. Democratization, national reconciliation and respect for human rights were central elements of the political objectives, which call for establishment throughout the region of democratic, representative and pluralistic systems ensuring fair and regular elections[2].

Signature of the Document by the Foreign Ministers of the five Central

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[1] By this time, there were more Cuban military and security personnel in Nicaragua than similar United States personnel in Honduras, El Salvador and Costa Rica combined.

[2] The text of the 21 objectives is as follows:

> [1] "To promote detente and put an end to situations of conflict in the area, refraining from taking any action that might jeopardize political confidence or prevent the achievement of peace, security and stability in the region;
>
> [2] To ensure strict compliance with the aforementioned [in a preamble] principles of international law, whose violators will be held accountable;
>
> [3] To respect and ensure the exercise of human, political, civil, economic, social, religious and cultural rights;

American countries reflects their adoption of the view that *all* of the matters addressed in the 21-point Document of Objectives must be addressed in order to resolve the problems giving rise to conflict in the region, and that they must be addressed in a framework of mutual, binding and verifiable reciprocal commit-

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[4] to adopt measures conducive to the establishment and, where appropriate, improvement of democratic, representative and pluralistic systems that will guarantee effective popular participation in the decision-making process and ensure that the various currents of opinion have free access to fair and regular elections based on the full observance of citizens' rights;

[5] To promote national reconciliation efforts wherever deep divisions have taken place within society, with a view to fostering participation in democratic political processes in accordance with the law;

[6] To create political conditions intended to ensure the international security, integrity and sovereignty of the States of the region;

[7] To stop the arms race in all its forms and begin negotiations for the control and reduction of current stocks of weapons and on the number of armed troops;

[8] To prevent the installation on their territory of foreign military bases or any other type of foreign military interference;

[9] To conclude agreements to reduce the presence of foreign military advisors and other foreign elements involved in military and security activities, with a view to their elimination;

[10] To establish internal control machinery to prevent the traffic in arms from the territory of any country in the region to the territory of another;

[11] To eliminate the traffic in arms, whether within the region or from outside it, intended for persons, organizations or groups seeking to destabilize the governments of Central American countries;

[12] To prevent the use of their own territory by persons, organizations or groups seeking to destabilize the governments of Central American countries and to refuse to provide them with or permit them to receive military or logistical support;

[13] To refrain from inciting or supporting acts of terrorism, subversion or sabotage in the countries in the area;

[14] To establish and co-ordinate direct communication systems with a view to preventing or, where appropriate, settling incidents between States of the region;

[15] To continue humanitarian aid aimed at helping Central American refugees who have been displaced from their countries of origin, and to create suitable conditions for the voluntary repatriation of such refugees, in consultation with or with the co-operation of the United Nations High Commissioner for Refugees (UNHCR) and other international agencies deemed appropriate;

[16] To undertake economic and social development programmes with the aim of promoting well being and an equitable distribution of wealth;

[17] To revitalize and restore economic integration machinery in order to attain sustained development on the basis of solidarity and mutual advance;

[18] To negotiate the provision of external monetary resources which will provide additional means of financing the resumption of intra-regional trade, meet the [*sic*] serious balance-of-payments problems, attract funds for working capital, support programmes to extend and restructure production systems and promote medium- and long-term investment projects;

[19] To negotiate better and broader access to international markets in order to increase the volume of trade between the countries of Central America and the rest of the world, particularly the industrialized countries; by means of a revision of trade practices, the elimination of tariff and other barriers, and the achievement of the price stability at a profitable and fair level for the products exported by the countries of the region;

[20] To establish technical co-operation machinery for the planning, programming and implementation of multi-sectoral investment and trade promotion projects.

The Ministers for Foreign Affairs of the Central American countries, with the participation of the countries in the Contadora Group, have begun negotiations with the aim of preparing for the conclusion of the agreements and [21] the establishment of machinery necessary to formalize and develop the objectives contained in this document, and to bring about the establishment of appropriate verification and monitoring systems. To that end, account will be taken of the initiatives put forward at the meetings convened by the Contadora Group." (UN doc. S/16041**, October 18, 1983 (UN translation) (numbers have been inserted for easier reference).)

ments. The United States has repeatedly made clear, both publicly and in private, that the 21 objectives would, if implemented, meet all United States policy goals for the region[1].

Although Nicaragua signed the document, its discomfort with many of the objectives has led the Sandinistas to repeatedly undercut the process by pursuing their own agenda in other fora. On several occasions, the Sandinistas have sought to involve the organs of the United Nations in Central American issues, anticipating a friendlier hearing there than in Contadora or the OAS. For example, in October 1983, six weeks after agreeing to the Document of Objectives, Nicaragua introduced the Central American issue before the United Nations Security Council, breaking an explicit commitment to the Contadora Group that it would not do so.

On October 20 Nicaragua elaborated its July 19 proposal by presenting four draft peace treaties covering Honduran-Nicaraguan relations; United States-Nicaraguan relations; relations among the five Central American States; and the conflict in El Salvador. The treaties were revealing. They studiously ignored the issues of national reconciliation on the basis of democratic principles which the Sandinistas had earlier accepted in the Document of Objectives. They disregarded the issue of restoring military balance in Central America and deferred treatment of foreign military advisors and the Nicaraguan arms buildup. They denied the legitimacy of the Government of El Salvador by treating it as co-equal with the FMLN. They made no serious proposals for verification. Finally — although the Sandinistas asserted that these treaties were a good faith effort to advance the Contadora Process — the proposals directly contradicted Contadora by attempting to deal with Nicaragua's neighbors and the United States through a series of bilateral, disconnected documents.

In the fall of 1983, resolutions of both the United Nations and the OAS, confirmed by unilateral statements of support from virtually every country of the world, endorsed Contadora as the most promising hope of achieving peace in the region. Slow but measurable progress was made in reducing the 21 Objectives to concrete commitments. In January 1984 the parties agreed to a timetable and conceptual approach for the negotiations. Nonetheless, Nicaragua continued to press its agenda outside the Contadora framework. In April 1984 it once again brought before the United Nations specific complaints against the United States. In that same month it brought before the International Court of Justice identical complaints of United States support for the Nicaraguan resistance.

The United States, however, continued to support the regional peace effort. In June 1984, at the request of the Contadora Group, the Secretary of State visited Managua and initiated bilateral discussions held in Mexico during the second half of that year. At the same time, the United States provided technical support for its friends in Central America as they grappled with the complex and difficult issues, such as effective verification, involved in a peace treaty[1].

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[1] In his affidavit filed with the International Court of Justice in August 1984, the Secretary of State stated that:

> "The United States fully supports the objectives already agreed upon in the Contadora Process as a basis for a solution of the conflict in Central America. The objectives of United States policy toward Nicaragua are entirely consistent with those broader agreed objectives and full and verifiable implementation of the Contadora Document of Objectives would fully meet the goals of United States policy in Central America as well as the expressed security concerns of Nicaragua." (Affidavit of Secretary of State George P. Shultz dated August 14, 1984, Ann. 1 to United States Counter-Memorial (Jurisdiction, case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*).)

In early June 1984, the Contadora mediators presented a draft "Contadora Act for Peace and Cooperation in Central America". This draft included Contadora Group proposals in those areas where the "working commissions" established in January had been unable to reach consensus. Following discussions, a revised version of that treaty was issued on September 7, 1984. Several Central American governments offered initial favorable reactions, while making clear that further negotiations would be necessary.

Nicaragua then announced, on September 21, its readiness to sign the draft treaty — provided that no substantive changes were made in its text. This unexpected announcement attempted to freeze negotiations at a moment of advantage for Nicaragua. Entry into force of the draft presented in September would have resolved the problems high on the Sandinista agenda[2]. Resolution of issues of concern to its neighbors, however, such as the Nicaraguan arms and troop buildup and commitments relating to national reconciliation, refugees and democratization, was left to negotiations and unilateral implementing actions *following* entry into full force of the commitments in which Nicaragua was interested. Nicaragua's neighbors were being asked to rely on Sandinista good faith in subsequent actions.

The other Central American States proposed limited modifications to the text to meet their own concerns more adequately. Amendments proposed jointly by Costa Rica, El Salvador and Honduras in Tegucigalpa on October 20 maintained all of the substantive commitments of the September 7 draft, but amplified the verification mechanisms in the security and political spheres and provided protection for the other parties in the event Nicaragua failed to negotiate in good faith on the key issues of military limits[3].

The Contadora mediators acknowledged the validity of these concerns. Since the fall of 1984, the negotiations have concentrated on completing negotiation of these points on the basis of the September 7 and October 20 drafts. Nicaraguan participation in these discussions has been erratic, ranging from apparent readiness to negotiate on some occasions to, at the June 18-19, 1985, meeting, complete refusal to discuss the draft treaty unless Nicaragua's current complaints against the United States were first addressed and supported by the group[1].

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[1] Despite Nicaragua's ready acceptance of the September 7 draft as it stands, the fact is that verification of the security and political commitments described in that draft would be extremely difficult. Central America is a mountainous, swampy, underdeveloped area larger than East and West Germany together. Verification that arms are not being smuggled or that certain kinds of weapons are not being acquired raises questions which cannot readily be answered or treated *ad hoc*.

[2] It would have eliminated the United States presence in the region by prohibiting international exercises, schools and bases, and "operational trainers" (i.e., the few dozen United States trainers in El Salvador) but left to future negotiation the reduction of "technical advisors" such as the Cubans in Nicaragua. By eliminating all support for groups fighting the government in any Central American country, it would have as a practical matter terminated United States support for the opposition in Nicaragua while allowing Nicaraguan-supported groups to continue to receive clandestine supplies.

[3] The October 20 draft was substantially the same as the September 7 draft. Its commitments would enter into force following ratification by all five parties, instead of providing for implementation of some provisions before ratification. It would regulate rather than prohibit international military exercises. It would, by providing an international corps of inspectors and a budget, strengthen the verification commission referred to in the September 7 draft. It would simplify the post-signature negotiation of agreements on arms and troop ceilings, military installations and advisors. Where the September 7 draft required a freeze on arms acquisitions throughout the negotiating period, the October 20 draft would limit the freeze to 60 days (the period during which the September 7 draft envisaged the negotiations would be concluded).

Manzanillo. In a mirror image of the concern that had led to exclusion of the United States from the Contadora initiative, Nicaragua began to assert in 1983 and 1984 that no truly effective arrangements could be agreed on in Contadora in the absence of the United States. At Contadora request, in June 1984 the United States initiated a series of bilateral negotiations with the agreed objective of facilitating the Contadora Process. Over the next five months nine rounds of talks were held, all but one in Manzanillo, Mexico[2]. The United States entered the discussions prepared to reach bilateral understandings that, channeled into the multilateral process, would facilitate conclusion of a comprehensive Contadora regional agreement. The Sandinistas' purpose, it became clear, was to negotiate bilateral accords dealing exclusively with their own security concerns.

Consistent with the Document of Objectives, the initial United States proposal was to develop jointly a calendar of reciprocal actions addressing the key aspects of the regional crisis. In order to build confidence, the actions were to be carried out in phases and to be independently verified. Nicaragua once again, as in October 1983, proposed a series of bilateral and multilateral treaties that would deal on a priority basis with United States support for what Nicaragua termed "counter-revolutionary, mercenary forces" and the United States military presence and exercises in the region[3].

In late September, the United States offered to limit the size, frequency and duration of its military exercises to reflect progress made in other areas. It proposed a common, low ceiling on foreign advisors in the region and a staged process for negotiations on arms and force levels among the Central American States. To meet Nicaragua's contention that it could not reduce its military establishment while facing an internal insurgency, the United States suggested that the negotiations not begin until steps were taken to end support for insurgency. Adjustment down to agreed limits would, moreover, be taken in phases.

At the same round, Nicaragua adopted the Contadora draft agreement of September 7 as its negotiating proposal. It consistently refused, however, to contemplate any substantive modification to that draft. It also refused to discuss the commitments relating to reconciliation and democratization contained in its text. This refusal to consider modifications was maintained even after the Contadora mediators accepted the need for changes to meet the concerns reflected in the October 20 Tegucigalpa draft.

At a subsequent meeting the United States attempted to open up the Sandinista position by offering to discuss bilateral assurances that would meet their specific concerns about modifications of the draft. It proposed, for example, that in exchange for Nicaraguan agreement to the continuation of international military exercises the United States would unilaterally limit exercises to levels worked out with Nicaragua.

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[1] Nicaraguan "reasonableness" in its negotiating posture is notably high at sessions for example, the April 11-12, 1985, meeting at which verification procedures were agreed in principle immediately preceding significant votes in the United States Congress. In the subsequent May session Nicaragua reneged on key elements of the procedures agreed upon in April.

[2] The second round, to establish ground rules, was held in Atlanta. As part of the ground rules of the talks, both sides agreed to summarize the content of the discussions with the Mexican Secretary of Foreign Relations following each round. Only the United States and Nicaragua were physically present at the negotiation sessions.

[3] Nicaraguan concern that United States forces will be used against them are recurrent. The most famous of the many inaccurate Sandinista predictions of United States invasion was made by Coordinator Ortega at the United Nations on October 2, 1983, when he declared that the United States would invade Nicaragua on October 15, 1984. (UN Doc. A/39/PV.16.)

After requesting time to consider the proposal, Nicaragua rejected it at the ninth and to date final Manzanillo round, reiterating its position that any approach involving substantive changes to the September 7 draft was unacceptable. Nicaragua did hint at a willingness to make concessions in the security sphere, but only in a bilateral agreement reached outside the Contadora framework — thereby freeing it from any obligation to address the issues of democratization, national reconciliation and regional arms reductions.

Given the Sandinista position, agreement would have been possible only if the United States approved the September 7 draft without change, despite the imperfections acknowledged by Contadora participants, or disregarded Contadora entirely and entered into purely bilateral negotiations. Neither position was acceptable, and the United States declined to schedule further discussions pending demonstration that Nicaragua was prepared to negotiate seriously within the Contadora framework. The United States made clear that it does not rule out a resumption of bilateral talks, but that they must promote a comprehensive Contadora agreement and national reconciliation in Nicaragua.[1]

September 1985

Six years after the overthrow of Somoza, earlier hopes for peace and democratic development in Nicaragua have not been realized. The ruling Sandinista regime has continued its aggressive behavior toward its neighbors, taken ever stronger control over the State and — despite its OAS and Contadora commitments — refused any dialogue with the Nicaraguan opposition as a whole.

Costa Rica's initial favorable response to the 1979 revolution and readiness to develop close relations with Nicaragua have shifted. Costa Rica now faces a country engaged in subversion and intimidating direct military attacks, creating a pervasive climate of fear and uncertainty. In the Sandinistas, it sees a regime which has betrayed the revolution for which Costa Rica had such high hopes, and which is even more aggressively hostile to Costa Rican democracy than was Somoza. In Honduras, democratic reforms have taken hold, but an increasing proportion of that country's resources has had to be devoted to defense against the conventional military threat of the Sandinista People's Army and the FSLN's repeated attempts to initiate guerrilla war in Honduras. In El Salvador, political and economic reforms are being carried out by a popular government now strong enough to command the allegiance of a previously apathetic population in the war against the FMLN. At the same time, however, a weakening guerrilla movement, increasingly dependent on the FSLN's continued support, has focused its attacks on the destruction of the country's economic and political infrastructure — a strategy based on exhausting the government and population to the point that power could eventually be seized by armed force.

The United States has tried a variety of approaches to the Sandinistas. United States policy throughout has been based on implementation of the Sandinistas' own 1979 promises of democratic pluralism and non-alignment — promises which the Contadora Document of Objectives ratified as essential to achieving peace in the region — and on a refusal to stand aside in the face of Sandinista aggression against its neighbors. Despite determined efforts, from 1979 through 1981, to maintain and develop a positive relationship with the regime, Sandinista support for the Salvadoran guerrillas and attacks on its other neighbors required a termination of assistance. Subsequent efforts to reach a bilateral accommodation, particularly in August 1981 and April 1982, failed. United States support for the Contadora negotiations, most notably through the Manzanillo talks, has been met only by efforts to undercut that multilateral process and to narrow the issues to those of immediate interest to the Sandinistas. The United States has provided assistance to the Nicaraguan resistance in an effort to make clear to the Sandinistas that they cannot export their "internationalism" with impunity. Termination of that assistance for a year not having resulted in any softening of Sandinista intransigence, assistance in the form of non-lethal aid has been approved and will begin in the immediate future.

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[1] United States support of Contadora was authoritatively reaffirmed by the Secretary of State in Mexico City on July 26, 1985.

Nicaragua's neighbors, with United States economic and security assistance, have persisted in addressing conditions that contribute to internal conflict through programs of internal reform and democratization. At the same time, they have sought, through a combination of collective defense efforts and participation in the Contadora negotiations, to respond to Nicaragua's continued military attacks, support for subversion and destabilization and intimidating military buildup. Despite the substantial progress made during this period, however, they remain under a cloud created by a regime unyielding to the needs of its neighbors, the resistance of its own people, or the efforts of other States in the hemisphere to assist it in addressing the problems it increasingly creates for itself.

IV. Conclusion

There is a vast gulf between Sandinista claims and the reality of the situation in Central America. Far from being innocent victims of outside forces seeking to bring about their overthrow, the Sandinistas have engaged in a sustained effort to overthrow or intimidate other governments through the threat and use of force. And, the record shows, the pressures on the Sandinista regime are not the product of a conspiracy to prevent the peaceful development of Nicaragua, but rather a collective response to specific acts of aggression.

The arguments the Sandinistas have made are revealing. They have sought to characterize their military expansion — with the Nicaraguan armed forces now dwarfing in size, sophistication and firepower those of their neighbors — as a necessary response to an externally supported insurgency and threat of invasion.[1] They have not even attempted, however, a similar effort to explain away their own involvement in arming and supporting guerrillas in neighboring countries. They have not alleged that their use of force against El Salvador, Honduras and Costa Rica responds to any threat to Nicaragua from those countries. Rather, they have denied, flatly and publicly, their own aggression, and questioned the legitimacy of the collective response by speculating that that response would have taken place regardless of their own interventions.

The Sandinista strategy of diverting attention from their own illegal actions by accusing others of abusing the norms they themselves have violated has been reasonably successful as a propaganda exercise. But for those who have scrutinized the record, the facts speak for themselves.

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[1] As noted, in the text and footnotes 2 and 3, p. 466, *supra* to Section II of this paper, the growth in armed forces and acquisitions of major weapons systems were planned and for the most part implemented well before the time the Sandinistas allege any significant security threat existed.

The Sandinistas can no longer deny that they have engaged and continue to engage in intervention by:

- Providing the arms, training areas, command and control facilities and communications that transformed disorganized and factionalized insurgents in El Salvador into a well organized and equipped military force of several thousand responsible for many thousands of civilian casualties and direct economic damages of over $1 billion.
- Equipping, training, organizing and infiltrating Honduran guerrillas, as well as clandestine Nicaraguan security personnel, into Honduras in an attempt to foment insurgency, as well as engaging in shelling, mining and other conventional military incursions into Honduran territory.
- Using its diplomatic presence in Costa Rica to conduct bombings and assassinations, financing, equipping and training Cost Rican citizens in subversive activities, and using its overwhelming conventional military might to conduct cross border incursions and to intimidate a nation that has been without a military establishment for 35 years.

Yet the record shows that all of these patterns of aggression were well established long before the Sandinistas alleged any significant threat to Nicaragua's own security from the United States or any other country.

Similarly, despite Nicaragua's efforts to characterize the United States role in Central America as driven by unmitigated and ideologically motivated hostility to the very existence of the Sandinista regime, the facts show that:

- Immediately after July 1979, the United States became the single largest contributor of economic assistance to the new government of Nicaragua.
- When the evidence of Nicaraguan material and other support for insurgency in El Salvador began to mount in 1980, the United States expressed its concerns privately in diplomatic channels and sought, while continuing economic assistance, to persuade the Sandinistas to cease such unlawful behavior.
- When Sandinista assurances to the United States were demonstrably violated at the time of the "final offensive" in El Salvador in January 1981, the United States suspended assistance to Nicaragua and renewed military assistance to El Salvador to assist in its defense.
- In the spring of 1981, the United States offered to resume assistance to Nicaragua on the condition that it cease its intervention against its neighbors and discussed concrete steps by which Nicaragua could demonstrate its good faith in this respect.
- Only when Nicaragua refused to take serious steps to end its intervention was United States bilateral assistance terminated — and then with indications that it would be renewed if intervention ceased.

United States actions clearly are not the acts of one government determined to destroy another. Nor are they the acts of a government seeking only to create a pretext for intervention. They are actions concerted with allies in an effort to persuade an aggressor government to cease its unlawful acts in the interest of regional peace and security.

Most significantly, by the Sandinistas' own accounts, no military response by any of its neighbors or by the United States was undertaken until well after the pattern of Nicaraguan intervention was established and flourishing.

United States efforts to assist the nations of Central America in their defense against Nicaragua's actions have involved several inter-related elements, including:

- Bilateral and multilateral diplomatic efforts to secure a peaceful resolution

- based on objectives agreed to by the Central American parties themselves in the Contadora Process.
- Economic and military assistance to Nicaragua's neighbors to sustain their economies and provide for national defense in the face of Sandinista intervention.
- Economic measures, including a reduction of Nicaragua's sugar quota and a cessation of most bilateral trade, to demonstrate United States concern and to give the Sandinistas an incentive to cease their unlawful acts and participate in comprehensive and stable arrangements for resolving the conflict in the region.
- An increase in the size and frequency of joint military exercises with the forces of neighboring States to enhance the defense abilities of those armed forces and to deter major conventional military assaults by the Sandinista army against them.
- Assistance to Nicaraguans resisting the internally repressive and externally interventionist policies of the Sandinista regime.

This latter element of the collective response to Nicaraguan aggression has been the principal focus of Sandinista complaints. The Sandinistas have sought to imply that such assistance is unlawful — even as a response to aggression — because many of the details concerning this program are "covert". But the lawfulness of a use of force has nothing to do with the degree of secrecy maintained.

The simple fact is that Sandinista intervention, including support for guerrilla forces in other countries, has induced a collective response. A nation engaged in the unlawful use of armed force against another becomes the proper object of necessary and proportionate action by the victim and its allies in exercise of their right of individual and collective self defense. An aggressor cannot evade responsibility for its unlawful use of force, nor can it deprive its victims of their inherent right of self-defense. The Sandinista protestations of innocence cannot alter the fact of their continuing, unprovoked aggression against their neighbors. Nicaragua cannot claim the protection of the very principles of international law it is itself violating.

The Sandinistas' relief from the collective response to their behavior lies not in continued efforts to present themselves as the victims of an international conspiracy or in attempts to hide their continued intervention against Nicaragua's neighbors. The other nations of Central America and the United States have made clear that a serious effort on the part of the Sandinistas to implement the agreed comprehensive framework for ending the conflict that they began will be reciprocated. A genuine mechanism for ending aggression and bringing about reconciliation is the only way to bring a just and lasting peace to Central America. This reconciliation remains where it has been from the outset — in the hands of the Sandinistas.

APPENDIX 1

Glossary

Ahuas Tara: The "Big Pine" series of joint United States-Honduran military exercises begun in February 1983.

America Department: A section of the Central Committee of the Cuban Communist Party which handles relations with leftist organizations throughout the Western Hemisphere.

ARDE: Democratic Revolutionary Alliance, *Alianza Revolucionaria Democratica*, a coalition of anti-FSLN organizations founded in 1982.

Cinchoneros: See URP.

Contadora Group: Colombia, Mexico, Panama and Venezuela met in January 1983 on the Panamanian island of Contadora and formed the Contadora Group for the purpose of facilitating a peaceful settlement to the Central American crisis.

Contadora Document of Objectives: Adopted September 9, 1983. Document agreed to by all nine Contadora participants (the Contadora Group and the five Central American countries). Sets forth 21 objectives to resolve the Central American crisis. Has served as the basis of discussion for all subsequent negotiations.

Coordinadora: Nicaraguan Democratic Coordinating Board, *Coordinadora Democratica Nicaraguense*, a coalition of political parties, labor confederations and private sector organizations opposed to radical FSLN policies.

Declaration of San José: Adopted October 4, 1982, by seven democratic governments including the United States. Sets forth the conditions for a regional peace settlement.

DGSE: The General Directorate of State Security, *Direccion General de Seguridad del Estado*, of the Nicaraguan Ministry of Interior.

DRI: The FSLN's Department of International Relations, *Departamento de Relaciones Internacionales*, closely modeled after the America Department of the Cuban Communist Party.

DRU: The Unified Revolutionary Directorate, *Direccion Revolucionaria Unificada*, was the coalition of Salvadoran guerrilla groups formed in May 1980 in Havana and which preceded the FMLN.

EGP: The Guerrilla Army of the Poor, *Ejercito Guerrillero de los Pobres*, a Guatemalan guerrilla group, became a member of the URNG, the umbrella organization formed in Managua on November 2, 1980.

ERP: The People's Revolutionary Army, *Ejercito Revolucionario del Pueblo*, is a Salvadoran revolutionary group and was formed after a split within the FPL in 1972. It is led by Joaquin Villalobos.

FAL: The Armed Forces of Liberation, *Fuerzas Armadas de Liberacion*, the Salvadoran Communist Party's (PCES) guerrilla wing formed by Jorge Shafik Handal in 1979.

FAO: The Broad Opposition Front, *Frente Amplio Opositor*, formed in mid-1978 by an alliance of 16 non-FSLN organizations, including opposition political parties and labor confederations. FAO presented a 16-point plan in August 1978 for the democratization of Nicaragua — including the departure of Somoza.

FAR: The Rebel Armed Forces, *Fuerzas Armadas Rebeldes*, is a Guatemalan guerrilla organization and a member of the URNG.

FARN: Armed Forces of National Resistance, *Fuerzas Armadas de Resistencia Nacional*, Salvadoran revolutionary group that splintered from the ERP in 1975.

FDN: Nicaraguan Democratic Force, *Fuerza Democratica Nicaraguense*, the largest of the anti-FSLN resistance groups founded in 1982.

FDR: The Democratic Revolutionary Front, *Frente Democratico Revolucionario*, is the political wing of the FMLN. It was created on April 1, 1980, by three small Salvadoran political parties and urban organizations to serve as the civilian arm of the guerrillas.

FMLH: The Morazanist Front for the Liberation of Honduras, *Frente Morazanista para la Liberacion de Honduras*, is a Honduran guerrilla organization.

FMLN: The Farabundo Marti National Liberation Front, *Frente Farabundo Marti para la Liberacion Nacional*, is an umbrella organization formed in November 1980. Consists of five Salvadoran guerrilla groups ERP, FAL, FARN, FPL and PRTC.

FMLN-FDR: FMLN and the FDR — the Salvadoran guerrilla umbrella organization and its political front.

FPL: Popular Liberation Forces, *Fuerzas Populares de Liberacion*, the largest of the original Salvadoran guerrilla organizations that formed the FMLN. The FPL, founded in 1970 by Cayetano Carpio after he left the Communist Party of El Salvador, has long been linked to Cuba. The leadership was taken over by Leonel Gonzales upon Carpio's death.

FPR: The Popular Revolutionary Forces, *Fuerzas Populares Revolucionarios*, is a Honduran guerrilla organization.

FSLN: The Sandinista National Liberation Front, *Frente Sandinista de Liberacion Nacional*, was a politico-military organization in the anti-Somoza struggle, now the official party of the revolution.

GRN: Government of National Reconstruction, *Gobierno de Reconstruccion Nacional*, the revolutionary government of Nicaragua from July 1979 until the current "elected" government took office in January 1985.

Manzanillo: Mexican coastal city where bilateral talks between the United States and Nicaragua were held in 1984.

National Directorate: The nine-member directorate of the FSLN, formed in March 1979, with three representatives from each of the three main factions within the FSLN: Prolonged Popular War (Guerra Popular Prolongada — GPP) is represented by Tomas Borge, Henry Ruiz, and Bayardo Arce; Proletarian Tendency (Proletarios) by Jaime Wheelock, Carlos Nunez, and Luis Carrion; and the Insurrectionalists (Terceristas), by Daniel Ortega, Humberto Ortega, and Victor Tirado.

NBCCA: National Bipartisan Commission on Central America better known as the Kissinger Commission. Formed in June 1983, the Commission issued a report in January 1984 that led to increased United States economic and military assistance for the promotion of democracy and development in Central America.

New Republic Movement: Costa Rican political party. Some of its members have fought anti-Sandinista guerrillas in Nicaragua.

Olancho: The department, a political subdivision, in eastern Honduras where Sandinista-supported guerrillas were defeated in July 1983.

OAS: Organization of American States.

ORPA: Revolutionary Organization of the People in Arms, *Organizacion Revolucionaria del Pueblo en Armas*, a Guatemalan guerrilla group which is a member of the URNG.

PCES: Communist Party of El Salvador, *Partido Comunista de El Salvador*, is the oldest Marxist party in El Salvador. Its military wing is the FAL guerrilla group.

PGT: Guatemalan Labor Party, *Partido Guatemalteco del Trabajo*, the Moscow-line Communist Party of Guatemala.

PRTC: Central American Revolutionary Workers' Party, *Partido Revolucionario de Trabajadores de Centroamerica*, organized and led by Roberto Roca who formed the party in El Salvador in 1976. This Trotskyite offshoot of the Communist Party has counterpart parties in Costa Rica, Honduras and Guatemala.

El Paraiso: (1) The department, a political subdivision, in Honduras where Sandinista-supported guerrillas were defeated in 1984.

(2) Also the name of the location in El Salvador where the headquarters of the Fourth Brigade was attacked by guerrillas in December 1983.

Papalonal: Site of airfield in Nicaragua used to fly weapons to Salvadoran guerrillas during 1980-1981.

PVP: The Popular Vanguard Party, *Partido de la Vanguardia Popular*, is a Costa Rican political party some of whose members fought alongside Sandinista units prior to the overthrow of Somoza. It was a Moscow-line Communist Party until it split in 1984; the faction now bearing the name is the more radical.

RMTC: Regional Military Training Center established in Honduras in June 1983 for training of Honduran, Salvadoran and Costa Rican military and security forces. (It closed in June 1985.)

UNO: Unified Nicaraguan Opposition, *Unidad Nicaraguense Opositora*, an umbrella coalition of anti-FSLN resistance groups and exile political, labor and private sector organizations formed in June 1985.

URP: Popular Revolutionary Union, *Union Revolucionaria del Pueblo*, a Honduran revolutionary organization also known as "Cinchoneros".

URNG: Guatemalan National Revolutionary Unity, *Unidad Revolucionaria Nacional Guatemalteca*, is an umbrella organization, patterned after the FSLN and the FMLN, the membership of which includes four Guatemalan guerrilla organizations: EGP, FAR, ORPA and PGT. Created in Managua on November 2, 1980.

APPENDIX 2

Chronology

January 1978
10 Pedro Joaquin Chamorro assassinated in Managua.
August 1978
21 The non-FSLN Broad Opposition Front (FAO), calling for Somoza's departure, presents a 16-point plan for democratization of Nicaragua.
22 Eden Pastora, known as Commander Zero, leads successful FSLN raid on the National Palace in Managua.
September 1978
23 17th Meeting of Consultation of Foreign Ministers of the Organization of American States (OAS) considers the situation in Nicaragua.
October 1978
6 Under the auspices of the OAS, the United States, Guatemala and the Dominican Republic begin a three-month-long attempt to resolve internal conflict in Nicaragua.
January 1979
17 OAS mediation effort ends without resolving the Nicaraguan conflict.
February 1979
8 United States formally terminates military aid to Nicaragua (already suspended for several months), suspends new economic aid, withdraws military assistance group and Peace Corps volunteers and reduces size of embassy staff by one-half.

June 1979

16 Provisional Junta of the Government of National Reconstruction (GRN) formed in Costa Rica.

21 At United States request, the 17th Meeting of Consultation of Foreign Ministers of the OAS reconvenes to consider situation in Nicaragua.

23 OAS approves a Venezuelan resolution calling for the immediate replacement of the Somoza régime by a democratic government.

July 1979

12 GRN Junta sends telex enclosing its program and promising free elections to the Secretary General of the OAS.

17 Somoza resigns and interim government announced.

19 Collapse of interim government as FSLN military forces arrive in Managua and GRN assumes power.

21 Salvadoran guerrilla leaders and Sandinista leaders meet in Managua to discuss FSLN support for Salvadoran insurgent organizations.

Cuban civilian and military advisors arrive in Managua.

27 United States announces airlift of food and medical supplies.

September 1979

21-23 FSLN party meeting approves "72-hour" document committing Sandinistas to revolutionary internationalism.

24 Nicaraguan government delegation headed by Daniel Ortega received at White House by President Carter, who offers substantial aid, cautions against interference in neighboring States.

October 1979

15 General Romero is overthrown in El Salvador by military coup promising extensive political, social and economic reforms.

November 1979

9 President Carter asks Congress to provide an emergency $75 million "to restore confidence, private initiative and popular well-being in Nicaragua".

December 1979

16 Leaders of three Salvadoran organizations write to Fidel Castro that "thanks to your help" they have signed in Havana a unity pact to "advance the fight" for peace and socialism.

March 1980

3 Junta member Alfonso Robelo informs United States of GRN policy of non-involvement in Salvadoran internal politics but warns that a "few individuals" may be fighting with the Salvadoran guerrillas.

6 Agrarian reform begins in El Salvador.

Cuba makes large-scale weapons deliveries to Managua, including anti-aircraft and anti-tank guns and artillery.

April 1980

16 Council of State is expanded to ensure FSLN control.

19 Violeta de Chamorro resigns from GRN.

22 Alfonso Robelo resigns from GRN.

May 1980

Four Salvadoran guerrilla factions meet under Cuban sponsorship in Havana, form Unified Revolutionary Directorate (DRU).

31 President Carter signs legislation providing $75 million in assistance to Nicaragua, requiring certification that Nicaragua is not supporting terrorism.

June 1980

FSLN Directorate offers DRU headquarters in Managua, along with advice, materiel and a promise to assume "the cause of El Salvador as its own".

Salvadoran Communist Party leader Jorge Shafik Handal leaves Cuba for the Soviet Union and Vietnam seeking arms.

July 1980

23 FSLN Directorate member Bayardo Arce meets with delegation of Salvadoran guerrillas, agrees to provide ammunition, training and other support.

August 1980

23 Sandinista Defense Minister Humberto Ortega announces postponement of elections until 1985.

September 1980

United States warns that continued Sandinista support for Salvadoran guerrillas jeopardizes United States aid. Nicaragua responds that government not involved.

October 1980

Venue for meeting of Central American communist parties switched in mid-October from Managua to Havana at request of Nicaragua.

October-November 1980

FSLN begins airlift of supplies for Salvadoran guerrillas from Papalonal airfield northwest of Managua.

November 1980

7 URNG, Guatemalan guerrilla umbrella organization, formed in Managua.

17 Private sector leader Jorge Salazar murdered by Nicaraguan State Security (DGSE) agents.

December 1980

15 *Radio Liberacion*, Salvadoran guerrilla clandestine radio, begins transmissions from Nicaragua.

January 1981

10 Salvadoran guerrillas announce beginning of "Final Offensive" on clandestine broadcast from Nicaragua.

United States again warns Nicaragua that continued support for Salvadoran guerrillas could result in termination of aid programs and possibly even a demand for repayment of loans.

14 United States renews non-lethal military aid to El Salvador.

17 United States provides El Salvador with ammunition for first time since 1977.

March 1981

11 FSLN Directorate member and Minister of Defense Humberto Ortega in Hanoi publicly thanks Vietnam for its support of the Salvadoran revolutionary movement.

April 1981

1 United States announces suspension of economic assistance to Nicaragua, but does "not rule out" its "eventual resumption".

August 1981

Text circulates of secret speech by Humberto Ortega to military cadres in which the FSLN Directorate member asserts that Sandinista doctrine is Marxist-Leninist.

August-October 1981

United States initiates diplomatic exchanges with Nicaragua. United States offers bilateral non-aggression agreement and renewed economic assistance if Nicaragua stops aid to Salvadoran guerrillas and limits its military buildup. Nicaragua labels United States offer "sterile".

March 1982

14 First major armed resistance actions in Nicaragua take place when the Negro and Coco River Bridges are seriously damaged with explosives.

15 Nicaraguan government declares State of Emergency, imposing prior censorship and suspending certain civil rights.

15 Honduras proposes Central American peace plan in the Organization of American States to reduce arms and foreign military advisors; to respect non-intervention and to provide for international verification of commitments.

28 El Salvador elects a Constituent Assembly.

April 1982

9 United States offers eight-point proposal to Nicaragua. Nicaragua demands high-level meeting in Mexico.

15 Eden Pastora publicly announces his opposition to the FSLN regime accusing it of betraying the anti-Somoza Revolution.

July 1982

27 Costa Rica expels three Nicaraguan diplomats.

October 1982

4 In Costa Rica seven democratic governments sign the "Declaration of San José" outlining conditions for regional peace settlement.

8 Nicaragua refuses to receive Costa Rican Foreign Minister as emissary of group.

January 1983

8 Foreign Ministers of Colombia, Mexico, Venezuela and Panama meet on Panama's Contadora Island, issue declaration commending dialogue and negotiation.

January–April 1983

Nicaragua resists meeting in multilateral setting, opposes idea of comprehensive agreement dealing with all interrelated issues.

February 1983

1 "Big Pine", also known as Ahuas Tara, joint United States-Honduran military exercises, begin.

28 El Salvador Peace Commission established, including a representative from the church. Efforts focused on promoting the participation of all social and political sectors in the democratic process.

April 1983

Salvadoran guerrilla leaders Anaya Montes (Ana Maria) and Cayetano Carpio die unnatural deaths in Managua.

15 Eden Pastora, "Commander Zero", announces he will begin military operations with his Sandino Revolutionary Front in southern Nicaragua on May 1.

27 President Reagan announces appointment of a Special Envoy for Central America for purpose of facilitating internal dialogue in both El Salvador and Nicaragua.

June 1983

6 Nicaragua expels three United States diplomats on bogus charge of plotting to assassinate Nicaraguan Foreign Minister; United States responds by closing all Nicaraguan consulates outside Washington, DC.

RMTC begins training of Honduran and El Salvadoran military personnel in Puerto Castilla, Honduras.

July 1983

United States increases naval presence off the Pacific and Caribbean coasts of Central America.

17 Declaration of Cancún of the Presidents of the Contadora Group calls for renewed efforts to continue peace process. Declaration sent to President Reagan, Central American Chiefs of State and Fidel Castro.

19 Sandinistas announce six-point peace plan, including acceptance of multilateral talks.

21 Guatemala, Costa Rica, Honduras and El Salvador propose peace plan drawing on Honduran plan of March 1982, and emphasizing relevance of democratization to peace and stability of region.

23 President Reagan supports Contadora principles in letter to Contadora Group Presidents.

Honduran PRTC guerrilla force trained in Nicaragua and Cuba infiltrates into the eastern Honduran province of Olancho.

September 1983

9 Contadora Document of Objectives approved by the five Central American States. It sets goals for regional negotiations, including democratic pluralism, national reconciliation, cessation of support to paramilitary forces, arms control, withdrawal of foreign advisors and verification.

October 1983

20 Nicaragua proposes four treaties to implement its July six-point plan but proposals do not address Contadora objectives of democratic national reconciliation, reductions in arms and foreign advisors.

25 United States and Caribbean nations land military forces on Grenada.

December 1983

24 Nicaraguan opposition *Coordinadora* issues communique calling for dialogue leading to open elections.

March 1984

25 First round of presidential elections held in El Salvador.

April 1984

9 Nicaragua files complaint against United States in the International Court of Justice.

22 Easter pastoral letter of the Nicaraguan bishops calls for dialogue, including with the armed resistance.

May 1984

6 José Napoleon Duarte elected President of El Salvador in run-off election.

June 1984

1 United States Secretary of State Shultz visits Managua to launch bilateral talks in support of reaching a comprehensive Contadora agreement.

8-9 Contadora Group submits first draft Contadora agreement to Central American governments for comment by July.

25 First of nine round bilateral talks between the United States and Nicaragua held at Manzanillo, Mexico.

July 1984

A 19-member vanguard unit of the Honduran Popular Revolution Force "Lorenzo Zelaya" enters from Nicaragua in an effort to establish a guerrilla network in the Honduran province of El Paraiso.

September 1984

7 Contadora Group submits, for Central American comment by mid-October, revised draft Contadora agreement.

21 Nicaragua states willingness to sign September 7 draft on condition that it is approved without modification.

25 6th round of Manzanillo talks. Nicaragua adopts September 7 Contadora draft as its negotiating position but rules out any substantive modification.

September-October 1984

International and regional efforts to induce Sandinistas to allow open, fair competition for November 4 elections fail.

October 1984

2 Daniel Ortega announces at the United Nations that United States will invade Nicaragua on or after October 15.

Daniel Ortega, in Los Angeles, California, states that the only guarantee for Nicaraguan security is to become a member of the Warsaw Pact.

October-November 1984

Salvadoran President Duarte at United Nations General Assembly calls for dialogue with armed opposition; meetings between government and FMLN take place October 15 at La Palma and November 30 at Ayagualo.

November 1984

4 Nicaraguan elections held for president and national assembly without participation of democratic *Coordinadora*, the alliance of the political opposition.

19 8th Round of Manzanillo talks. United States offers bilateral assurances in return for Nicaraguan acceptance of modifications to September 7 Contadora draft.

December 1984

10 9th round of Manzanillo talks. Nicaragua definitively rejects United States proposal; proposes bilateral accords in lieu of Contadora, addressing security issues only.

January 1985

10 Daniel Ortega sworn in as President of Nicaragua.

18 United States suspends Manzanillo meetings pending further developments in the Contadora Process.

February 1985

22 Statement calling for church-mediated dialogue issued in Managua by the *Coordinadora*.

March 1985

1 In San Jose, Costa Rica, the Nicaraguan resistance issues document calling for national dialogue.

22 Communique of the Nicaraguan Episcopal Conference accepting mediation role in dialogue.

31 Legislative and municipal elections in El Salvador, fourth free election in three years.

April 1985

4 President Reagan calls on Nicaraguan government to accept dialogue.

11-12 First meeting of Contadora plenipotentiaries reaches agreement in principle on revised verification procedures.

May 1985

1 United States announces selective trade embargo of Nicaragua.

14 Second meeting of Contadora plenipotentiaries.

Nicaragua renegs on international corps of inspectors for verification which was agreed to in April.

31 Sandinista mortar fire into Costa Rica kills two Costa Rican Civil Guard members. The OAS establishes a Special Commission to investigate.

June 1985

18 Third meeting of Contadora plenipotentiaries disrupted when Nicaragua refuses to consider Contadora Group compromise proposal.

July 1985

22 Contadora Group Foreign Ministers announce consultations with each Central American government in lieu of negotiations among plenipotentiaries.

APPENDIX 3

Former Guerrillas

This appendix summarizes the careers of individual guerrillas (representing four different groups) and two officials of Nicaragua's General Directorate of State Security. Each has been involved directly with insurgency against the Governments of El Salvador and Honduras. Their histories give a human picture of the secret involvement of Nicaragua and its allies in supporting revolution in El Salvador and Honduras. About half deserted; the others were captured. Most were active into 1985.

I. Guerrillas

A. Salvadorans

Marco Antonio GRANDE Rivera defected on May 25, 1985, to Salvadoran security forces in Jucuaran, Usulutan. Grande was a political leader and propaganda officer in the "Francisco Sanchez Southeastern Front" of the Communist Party of El Salvador (PCES/FAL). In 1980 the Party awarded Grande a scholarship to study international relations in the Soviet Union. In September 1982 he went from the USSR to Cuba for six months of military training. In June 1983, he and four other Salvadorans were given Nicaraguan documents and flown to Managua. There, they were taken to a safehouse, which Grande described as a way-station for Salvadoran guerrillas en route to and from El Salvador. Before leaving Nicaragua for El Salvador, Grande and others in the house were visited by various PCES leaders including Shafik Handal. In late July 1983, Grande reentered El Salvador by way of Guatemala.

Napoleon ROMERO Garcia, alias Commander "Miguel Castellanos", was the third-ranking commander of the Popular Liberation Forces (FPL) until his defection on April 11, 1985. He was responsible for organizing cadres and reviewing political plans, ideological statements and proposals for military and propaganda action. Since 1979 he had been a member of the FPL Central Committee and Chief of the FPL's Metropolitan Front (San Salvador). He participated in meetings of the Committee each year and in its 1983 congress, which took place in Managua. In early October 1983 Romero traveled to Managua, Havana, Moscow and Vietnam. In Managua, he spent a week with "Valentin", the FPL chief in Managua. Romero described in detail the logistical network for supplying FMLN guerrillas. The Sandinistas store war material and handle requests for arms from the Salvadoran guerrillas. He has categorized Nicaragua as the FMLN's "strategic rear".

Arquimedes CANADAS, alias Commander "Alejandro Montenegro", was a member of the People's Revolutionary Army (ERP). He was arrested in August 1982 in Tegucigalpa while en route to Managua. As commander of the Guazapa Front, he twice met Joaquin Villalobos, the ERP Commander, at the FMLN command post in Managua. He has described the logistical system for delivering weapons, ammunition and explosives from the Nicaraguan-Honduran border area of Las Manos across the Honduran-El Salvadoran border area of Amatillo to his headquarters at Guazapa. He coordinated the special commando group that attacked Ilopango military airbase in January 1982. In mid-September 1982 the Honduran guerrillas known as "Cinchoneros", demanded, among other things, Canadas' release in exchange for three ministers and more than 100 civilians held hostage.

Domingo BARRERA Castro, alias "Victor", deserted the Popular Liberation

Forces (FPL) in December 1982. He had been active in the Popular Revolutionary Block (BPR) and, in January 1980, was sent from an FPL camp in Chalatenango to Cuba for training. He secretly left El Salvador, taking a small boat at night across the Gulf of Fonseca to Nicaragua. From Nicaragua, he flew to Cuba. There, he took a six-month basic military training course in tactics and the use of weapons and explosives. Later, he attended a six-month leadership course. After completing his training, he returned to Managua and flew to Guatemala where he took a bus to El Salvador. In Chalatenango, he became an instructor for the FPL and, in December 1981, was named chief of the FPL's Northern Front "Apolinario Serrano". During 1982, Barrera because disillusioned with the war and with the FMLN's treatment of the population and deserted.

Jorge Eduardo PANIAGUA Verganza was captured by Salvadoran authorities on June 18, 1985. He had been recruited into the Armed Forces of Liberation (FAL), the armed wing of the Communist Party of El Salvador (PCES), in July 1982. He initially drove pickup trucks with secret compartments holding arms and munitions for guerrilla units. The arms had been transported overland from Nicaragua through Honduras into El Salvador. When the Salvadoran security forces broke up this network in April 1983, Paniagua became inactive. He resumed his work for the FAL in July 1984 and two months later was assigned to the Metropolitan Front in San Salvador.

William Daly RAMOS Orellana, arrested by Salvadoran authorities on August 9, 1984, was recruited for the Popular Liberation Forces (FPL) in 1978. In June 1982 he traveled to Costa Rica and then to Nicaragua, where he stayed for nearly two weeks before flying to Cuba. In Cuba, he attended a three-month course in recruiting techniques and methods for organizing "masses". He then returned to El Salvador where he became a recruiter for the FPL's Clara Elizabeth Ramirez Front (CERF).

Maria Elsy QUIJADA Valle, alias "Delmy", was captured by the Salvadoran National Police in September 1984. She had joined the Popular Liberation Forces (FPL) in May 1979. In September 1980 she traveled by bus to Guatemala and then flew to Nicaragua. After two weeks in Managua, she flew to Cuba for a military training course. In January 1981 she returned to Nicaragua and then traveled overland through Honduras to El Salvador.

Felicito MENJIVAR Briones, alias "Monico", surrendered to Salvadoran authorities on January 30, 1985. He was an activist in the Popular Revolutionary Block (BPR) before being recruited into the Popular Liberation Forces (FPL). In May 1980, he was sent from an FPL camp in Chalatenango to Cuba. He left El Salvador for Nicaragua on the La Union-Potosi ferry. From Nicaragua, he flew to Cuba for a six-month basic military course in weapons, explosives and tactics. He spent six months in Nicaragua working with some 300 Salvadorans from all five factions of the FMLN. In 1981 he flew from Managua to Guatemala and traveled by bus to El Salvador. He became a squad leader for an FPL platoon, serving first near Jucuaran and later Chalatenango. During an operation to disrupt the March 1984 elections, he was seriously wounded.

Ramon Aristides CHICAS Claros, alias "Tilo", defected on April 8, 1984. He was recruited into the People's Revolutionary Army (ERP) in May 1981. He spent his first year growing food for guerrilla units in Morazan. He made five trips to Santo Domingo, Honduras, to pick up supplies. In August 1982 Chicas was transferred to a guerrilla camp at Guarumas. The camp was supplied with arms, munitions and uniforms from Cuba by sea from Nicaragua. In December 1982 he became a bodyguard for the commander of the Rafael Arce Zablah Brigade (BRAZ).

Santos Enrique GARCIA Chilulo, alias "Quique", was an ERP member from 1981 until his capture by Salvadoran security forces on July 27, 1985. He joined the ERP in August 1981 while he was living in Chinandega, Nicaragua. In January 1982 he was sent to Cuba for a weapons-training course, which also was attended by several dozen Salvadorans. In May 1982 he returned to Nicaragua where in September he began six months' training in combat tactics at Montelimar. When not in training overseas, Garcia lived in ERP safehouses in Managua. According to Garcia, ERP units in Managua include a special forces group and a propaganda team, which prints fliers and counterfeit documents and recruits from among the estimated 20,000 Salvadoran refugees now living in Nicaragua.

José Juan MENJIVAR, was a member of the FPL from December 1982 until he defected in January 1985. In 1981 he spent several months in a refugee camp in Honduras before entering Nicaragua with false documents in August 1981. He was arrested by Sandinista security forces and held for two months as a suspected spy for the Honduran Government. On his release in October 1981 he was sent to a refugee camp in Leon department where he lived for over a year. In December 1982 he was recruited by a Salvadoran working for the FPL in Nicaragua, and reinfiltrated into El Salvador.

Adin INGLES Alvarado, alias "Vidal", the second ranking member of the special forces of the FPL, defected to the Salvadoran armed forces on May 19, 1985. The special forces group was formed in February 1983 as an elite combat unit for special missions. Nicaragua provided explosives and other equipment. The original 28 members were sent to Cuba to train and to develop operations plans. While in Cuba, they rehearsed an attack against the military headquarters of the 4th Brigade at El Paraiso, in Chalatenango department. They successfully carried out the attack in December 1983. When Ingles defected, 12 new recruits were in training programs abroad.

Maria Marta Concepcion Valladares de Lemus, alias "Nidia Diaz" or "Claudia Novale", was a guerrilla commander of the Central American Workers Revolutionary Party (PRTC). During President Duarte's first discussion with guerrillas on October 15, 1984, in La Palma, Diaz was one of three FMLN commanders present. Among the documents captured with her on April 18, 1985, were archives of the PRTC, including correspondence between the FMLN and the FSLN, notes of meetings, and other PRTC and FMLN documents.

B. Hondurans

Jorge Alberto GALVEZ, alias "Manuel", was captured in El Salvador on June 28, 1985, in the course of government efforts to solve the murder of 13 people in a sidewalk café in San Salvador on June 19, 1985. He was an Honduran member of the Salvadoran PRTC guerrilla organization. Galvez was born in Tegucigalpa and graduated from the Honduran national university in 1983. In late July 1983 he flew to Managua where he worked with seven other Hondurans and Nicaraguans at the Center for Economic Studies of Honduras. In November 1984 a Salvadoran member of the PRTC recruited Galvez to work inside El Salvador. In December 1984, Galvez flew to El Salvador's international airport at Comalapa and was taken to a PRTC camp in the Cerros de San Pedro.

Hondurans involved in the El Paraiso operation and captured between July and October 1984 by the Honduran armed forces: Arnulfo Montoya Maradiaga, alias "Felipe" or "Elias"; Gregorio Pinto Arevalo, alias "Guilberto Lopez Aballero" or "José Maria Reconco Zuniga" or "Ruben Agapito"; Pedro Antonio Ginon Reyes, alias "Rolando"; Ricardo de Jesus Ramirez Lemus, alias "Hector Caballero Chavez" or "Mario"; and Ana Rosa Rivera Perla, alias "Betty". All were members of the Popular Revolutionary Force "Lorenzo Zelaya" (FPR-

LZ). Operationally, they were part of a 19-member Popular Revolutionary Committee "Camilo Torres", which began infiltrating into Honduras from Nicaragua in July 1984 to establish a guerrilla network.

They have identified the FSLN's Department of International Relations (DRI) as essential in providing food, lodging, transportation and training while in Nicaragua. They also stated that they were members of an "International Brigade" led by Sandinista military (EPS) officers that fought Nicaraguan armed resistance forces in the Jalapa area of northern Nicaragua. They reported that the same "Brigade" included some 50 Costa Rican members of the Popular Vanguard Party.

II. Nicaraguan Security Personnel

Miguel BOLANOS Hunter was a member of the Nicaraguan General Directorate of State Security (DGSE). A Sandinista since 1978, he defected in May 1983. For four years, Bolanos worked in the F-7 [Mass Organizations] and F-2 [Foreign Diplomats] Sections of the DGSE. He described the FMLN logistics structure established by the Sandinistas in Managua. According to Bolanos, members of the FSLN Directorate, the DRI, the Fifth Directorate, the Ministry of Interior and the armed forces oversee the deliveries to the FMLN.

Reymundo MUNOZ Diaz and six other DGSE agents were arrested by Honduran security services in April 1985. While a member of the Nicaraguan General Directorate of State Security (DGSE), he commanded a group of DGSE agents whose mission was to smuggle weapons to the "Cinchoneros" in Honduras. Beginning in November 1984, Munoz made three trips to Honduras transporting M-16 rifles and other weapons by hiding them in corn-filled gunny sacks carried by mules.

APPENDIX 4

Nicaraguans in Exile

> "These will not be elections to decide who is in power, because the people hold power through their vanguard, the *Frente Sandinista*." (Humberto Ortega, August 1980, referring to the elections scheduled for 1985, actually held in 1984[1].)
>
> "I am an internationalist because I am a free man and I want to contribute to the liberation of all men . . . [But] in this moment, I express the sentiments of the majority of Nicaraguans when I say that the hour has arrived when they [the internationalists] should leave us alone — those who are not involved in activities that contribute to health and education. As someone who loves my people I take honor, like Sandino, in calling for all Nicaraguans to put themselves on a war footing as long as there is a foreign soldier on the native soil." (Eden Pastora, April 15, 1982[2].)
>
> "I joined the Revolutionary Government with . . . the conviction that the Revolution would be good, *first and foremost*, for Nicaragua. My experience

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[1] Quoted from "This Week Central America and Panama", September 1, 1980, and cited by Thomas A. Anderson, *Politics In Central America* (New York, 1982), p. 179.

[2] Statement read in San Jose, Costa Rica, announcing his break with the FSLN and reported in the *FBIS* for April 16, 1982. The translation used here is that of Shirley Christian, *Nicaragua: Revolution in the Family* (New York, Random House, 1985), p. 321.

> has disillusioned me: dogmatism and adventurism seem to have wiped out the democratic and pluralistic ideals which, in 1979, united all Nicaraguan advocates of freedom . . . Certain Sandinista revolutionary leaders . . . [profess] allegiance to an internationalist ideology . . . at the expense of the basic interests of the nation-state of Nicaragua." (Emphasis in original.) (Arturo Cruz, 1983[1].)

Sandinista internationalism has victimized Nicaraguans as well as Nicaragua's neighbors. Part of the problem arises from the irony that the movement that bears the name of Sandino, a nationalist who rejected communist ties, has sacrificed Nicaraguan nationalism to internationalism[2]. This has intensified the suffering of ordinary Nicaraguan citizens. In the political arena, many of those who opposed Somoza and supported the Sandinistas in 1979 have been forced into exile as the prospects of an open, democractic system of government emerging in Nicaragua fade.

Fears that the new men with guns would be dominant were initially discounted in the hope that the Sandinistas would understand that governing a country required a different approach from that required to overthrow a dictator. Indeed, the programs and early legislation of the new Government of National Reconstruction gave the Nicaraguan people, its neighbors and the international community as a whole, reason to hope that the dictatorial patterns of the past had been broken[3].

Within a year, however, Violeta de Chamorro[4] and Alfonso Robelo[5], two non-Sandinista members of the Junta of the Government of National Reconstruction, resigned in protest at Sandinista actions. Nonetheless, the Sandinistas retained a façade of pluralism by appointing non-Sandinistas in their place[1]. Nicaragua kept good relations with Western countries and received substantial amounts of assistance for the reconstruction of Nicaraguan society.

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[1] Arturo J. Cruz, "Nicaragua's Imperiled Revolution", *Foreign Affairs* (Vol. 61, No. 5, Summer, 1983), at pp. 1031-1032.

[2] "Ours is one of the few revolutions, perhaps the only one, that achieved the formation of a vast alliance, internal as well as external." (Comandante Victor Tirado Lopez, *Barricada*, December 17, 1984, front page of "Lunes Socio-Economico" section.)

[3] Among many other explicit undertakings, the Junta promised:

> full respect for enumerated human rights including freedom of the press and of thought, conscience and worship;
> the unrestricted functioning of political parties regardless of ideology;
> an independent and non-aligned foreign policy;
> a mixed economy and support for Central American integration;
> establishment of union rights and guarantee of the right to strike; and
> a "minimum" permanent military establishment.

These promises and many others were set forth in the July 9 program provided to the OAS, the July 20 Fundamental Statute and the September 17 Law on Rights and Guarantees of Nicaraguans.

[4] "When after a few months I realized that the course promised did not correspond to what was being done, I left the Junta . . . The principles for which we all fought until we won the departure from power of Anastasio Somoza Debayle have been flagrantly betrayed by the party in power, that is the Sandinist Front of National Liberation . . ." (Violeta B. de Chamorro, August 13, 1985.) Letter addressed to The Honorable Joao Baena Soares, Secretary General of the Organization of American States, Washington, DC.

[5] "I withdrew from the government Junta on 22 April 1980 after very serious disagreements with the Sandinista National Liberation Front . . . [which] because it had the arms, imposed some Marxist-Leninist deviations . . . I knew that there were Marxists within the Sandinista Front, I was not aware that there was complete Marxist-Leninist control . . ." (Alfonso Robelo, February 1981. In an interview by Francisco Talavera in Managua, Nicaragua, as published by *ABC Color*, March 12, 1981, pp. 8-9.) Other prominent Nicaraguans who have left official positions in the government include: José Francisco CARDENAL, named Vice President of the Council of State in 1980 but resigned soon after his appointment; Edgard MACIAS, anti-Somoza militant, head of the Popular Social Christian Party and former Vice Minister of Labor in the GRN; Jaime MONTEALEGRE, former Vice President of the Council of State; and Alvaro TABOADA, former Sandinista ambassador to Ecuador.

Sandinista intentions regarding the future direction of Nicaraguan society became more explicit in mid-1980 when Defense Minister Humberto Ortega announced the postponement until 1985 of the elections promised in the Junta's program. Controls over the press and the private sector were expanded substantially[2]. A "State of Economic and Social Emergency" was declared which, among other things, made it a crime to spread "false" economic news or to engage in strikes[3]. Sandinista Defense Committees, block organizations following a Cuban model, served as the "eyes and ears" of the FSLN in detecting anti-regime sentiment and organizing support for Sandinista activities[4]. After rationing began, they assumed a role in the distribution of some food, fuel and other goods to party members and non-members alike.

By 1982, the Sandinistas were openly abandoning the program on the basis of which the Government of National Reconstruction had taken power in 1979. Civil rights were suspended in March 1982, when the GRN declared a state of emergency which has subsequently been extended. The government moved against independent trade unions, intimidated business leaders and began in January 1982 the well-publicized relocation of the Miskito Indians from their traditional homelands on the Atlantic coast. The Sandinistas were also by this time encouraging the development of the "people's church" against the established church hierarchy. The latter, including Archbishop (now Cardinal) Miguel Obando Bravo, had initially been among the Sandinistas' most important allies in the battle against Somoza.

By November 1984, when the Sandinistas held elections earlier than previously announced, the prospects for peaceful opposition to their rule had been considerably diminished. All the major communications outlets, with the exception of *La Prensa* and a few private radio stations, were in the hands of the Sandinistas. All government bureaucracies and key ministries were in FSLN control. The Sandinista Workers Central had undermined the strength of non-Sandinista trade unions like the Confederation of Nicaraguan Workers. The party's youth and women wings in conjunction with the Defense Committees had effective control over mass mobilization. The State share of GNP had risen from roughly 15 per cent in 1978 to over 40 per cent, and Sandinista efforts to expand their economic control were continuing[1].

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[1] Among the factors precipitating the departure of Chamorro and Robelo was the FSLN's consolidation of its effective control over the government by modifying the composition of the Council of State to ensure a majority would represent Sandinista organizations. Only then was the Council, a representative "revolutionary" body in theory coequal with the Junta, convened for the first time. Despite occasional efforts by Sandinista authorities to distinguish between them, from this date the FSLN and the government of Nicaragua must be considered as essentially identical.

[2] Already by 1979 the FSLN had decided that "In July 1979, pressures . . . to preserve the bourgeois democratic approach . . . failed." 72-hour Document, 1979. Analysis, *op. cit.*, p. 612. The FSLN rapidly took over almost all press outlets, in the end leaving only *La Prensa*, a symbol of resistance to Somoza and of the regime's "commitment" to pluralism, any degree of independence. Censorship "regarding matters that relate to the country's domestic security" was first instituted by Decree 512, issued in August 1980. It has been expanded on several occasions since that time. The private sector has been intimidated and its independence curtailed through constant political attacks, regulation and control of raw materials and foreign exchange.

[3] *La Gaceta*, September 10, 1981. These rights were further limited in 1982 by the "Law of National Emergency". (*La Gaceta*, March 20, 1982.)

[4] Robert S. Leiken, "Nicaragua's Untold Stories", *The New Republic* (October 8, 1984), pp. 46, 50.

In this context, the November 1984 elections were another step in the anti-democratic direction set by the FSLN. Although an Independent Liberal Party (PLI) and a conservative group won substantial voter support, the main opposition *Coordinadora Democratica* refused to participate in the elections when it became clear that the FSLN was doing everything possible to prevent the mounting of an effective campaign by the democratic opposition. Those measures included mob violence against rallies, party candidates and headquarters; rationing of campaign resources and media time to ensure that the well-established FSLN organizational and media dominance was preserved; and, reduction of the voting age to 16 to expand the voting lists with persons educated only under Sandinista rule[2].

Not surprisingly, concern over the Sandinistas' progressive abandonment of the original program of the revolution led to disagreements among those in the government who had joined in alliance with the FSLN and among some members of the FSLN itself. The departure of Chamorro and Robelo from the Junta in 1980 pressaged the 1981 resignation of the former Vice-Minister of Defense and Sandinista war hero Eden Pastora who in April 1982 declared that the revolution had betrayed its ideals.

As the opportunities for effective and peaceful political opposition diminished, armed resistance to the regime began to evolve to include a broader base of leadership, recruitment and support. Both Pastora and Robelo began armed opposition in 1982. The Sandinistas have maintained an unwavering policy of refusing to enter into a dialogue with the resistance, a policy paralleling its continued refusal to conduct serious political discussions with the internal opposition as well.

SELECTED BIOGRAPHIES

Arturo José CRUZ Porras, a long-time member of the Conservative party, is an economist who holds graduate and undergraduate degrees from Georgetown University. He has specialized in development banking and has worked for the IADB. He was jailed twice by Somoza, once for 3 months and later for 11 months. In 1977, Cruz was invited by the Sandinistas to be one of "The Group of 12", prominent Nicaraguans who would serve as a bridge between the Sandinistas and other groups in the civil opposition to Somoza. Following the revolution, Mr. Cruz served as President of the Central Bank in 1979-1980, as a member of the governing Junta from May 1980 to March 1981, and as Nicaragua's ambassador to the United States from June 1981 until his resignation in December in protest over Sandinista policies. Cruz was the presidential candidate of the unified opposition in the November 1984 elections but refused to register his candidacy in protest over the Sandinista government's refusal to permit a fair electoral contest. He helped found UNO in 1985.

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[1] See H. W. Krumweide, "Sandinist Democracy: Problems of Institutionalization", in Grabendorff, Krumweide *et al.*, *Political Change in Central America: Internal and External Dimensions* (Boulder and London, 1984), pp. 70-72.

[2] The formal correctness of the elections themselves was reminiscent of Somoza's 1974 charade which Nicaragua's Roman Catholic bishops were forced to characterize as "legal war". Also see "Sandinistas Claim Big Election Victory", *New York Times*, November 6, 1984; "Nicaraguans Go to the Polls", *Washington Post*, November 5, 1984.

Alfredo CESAR Aguirre earned a BS degree in industrial relations from the University of Texas and an MBA from Stanford University. After serving as general administrator of the Nicaraguan Sugar Estates, he joined the Sandinistas in 1978 and was tortured and imprisoned by the government during Somoza's last year. After the Sandinista victory in 1979, Cesar became Executive Director of the International Reconstruction Fund. In 1980-1981 he was Executive Director of the Banking Superior Council. In 1981-1982 he was President of the Central Bank. After breaking with the Sandinistas Cesar went into exile in Costa Rica and became an advisor to the Costa Rican Government, specializing in external debt. In mid-1985 he became the most prominent of six founding members of the Southern Opposition Block.

Adolfo CALERO Portocarrero, a lifelong opponent of Somoza, has been President of the National Directorate and Commander-in-Chief of the armed forces of the FDN since December 1983. Calero graduated from the University of Notre Dame in 1953, did graduate work in industrial management at Syracuse University, and holds a law degree from the University of Central America in Nicaragua. He began his political career in the 1950s as an activist in the Conservative Party. In 1959 he helped organize managerial strikes in support of an insurrection headed by Pedro Joaquin Chamorro, editor of the opposition daily *La Prensa*. In 1978, Calero served as his party's representative in the Broad Opposition Front (FAO), and was jailed for initiating a general strike against Somoza. After attempting to cooperate with the Sandinistas, Calero went into exile at the end of 1982. He helped found UNO in 1985.

Enrique BERMUDEZ Varela is the military commander of the FDN armed forces. He served in the National Guard under Somoza and was assigned in Washington as Defense Attaché in 1977. In December 1982 he was cleared of "war crimes" by the FSLN's chief press spokesman. He has described himself as a professional soldier and, under Somoza, apolitical. He is a graduate of the Nicaraguan Military Academy and received training at the United States Army Command and General Staff College and the United States Army School of the Americas. He also received military training in Brazil.

Alfonso ROBELO Callejas, political coordinator of ARDE and head of the MDN, was trained as a chemical engineer. He served as director of the University of Central America from 1970 to 1972 and was President of the Nicaraguan Chamber of Commerce until 1975. He then headed the development institute INDE. Following the assassination of *La Prensa* editor, Pedro Joaquin Chamorro, Robelo founded the Nicaraguan Democratic Movement (MDN), a moderate, democratic oriented political party of businessmen, industrialists, and professionals opposed to the Somoza regime. After the revolution Robelo was one of the five members of the original 1979 Junta. He resigned in 1980 because of the Marxist tendencies in the FSLN-dominated government and the growing Cuban influence in the country. Harassed by the FSLN after his resignation, he was finally forced into exile in 1982, at which time he and Eden Pastora founded the Democratic Alliance, ARDE.

Eden PASTORA Gomez, the legendary Commander Zero and leader of the FRS (Sandino Revolutionary Front), was the Sandinista's most popular hero and a senior official of their government until he distanced himself from them in 1981. In August 1978 Pastora led the unit that captured the National Palace in Managua. That operation gained the release of 59 political prisoners, but its lasting significance was that it captured the imagination of the Nicaraguan people and enabled the Sandinistas to become the symbol of resistance to Somoza. After the fall of Somoza, Pastora became Vice Minister of Interior and then Vice Minister of Defense. In April 1982 he announced his opposition to the Sandinista regime. That same year he was co-founder of ARDE. In April 1983 he took up arms against the Sandinistas in southern Nicaragua.

Wycliffe DIEGO is a Miskito Indian leader from the Atlantic Coast town of Puerto Cabezas. He was a Moravian pastor and an active member of the Miskito organization ALPROMISU. He was jailed by Somoza in 1971 for allegedly being a communist. When MISURASATA was formed in 1979, Diego served as a member of its executive board. Reacting to the Sandinista mistreatment of Nicaragua's indigenous population, Diego went into exile and helped found the armed resistance group MISURA. He was wounded in a Sandinista-engineered 1982 assassination attempt.

APPENDIX 5

M-16s

In June 1980, the Secretary General of the Communist Party of El Salvador, Jorge Shafik Handal, visited Vietnam in search of weapons. He was promised 60 tons of arms and ammunition, including 1,620 M-16s [1].

The United States Government has since early 1981 traced the serial numbers of almost 1,600 M-16s [2] captured from Salvadoran guerrillas, turned in by defecting guerrillas [3] or, on the basis of captured guerrilla documents, still in guerrilla hands.

The traces show that 66 per cent of these arms can be positively identified as having been shipped directly to South Vietnam [4], to depots involved in shipment to Southeast Asia during the Vietnam conflict, or as having been manufactured by United States companies contracted only for matériel for the Vietnam war[1]. The 34 per cent unrelated to Vietnam included 27 per cent made up of weapons originally shipped to the Salvadoran Armed Forces[2] and 7 per cent traceable to other destinations.

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[1] "Vietnam. From 9 to 15 June. Received by [high-ranking party and military leaders] . . . They agreed to provide aid in weapons, the first shipment consisting of . . . 1,620 AR-15 rifles . . . one-and-one-half million AR-15 cartridges . . . approximate weight of the entire shipment: 60 tons. . . . The above-mentioned materiel will be ready for shipment during the first five days of September." Quoted from "Gira por los paises socialists, Asia y Africa" (Trip to the Socialist Countries, Asia, and Africa), *Documents*, E, p. 1.

[2] Some guerrilla documents refer to M-16s as AR-15s. Both nomenclature to describe the same automatic rifle. The original manufacturer, the Armalite Division of Fairchild designated the rifle the AR-15. The United States Army subsequently designated it the M-16. Colt Industries manufactured the definitive M-16 model, currently priced at $446 each.

[3] Under a Salvadoran government program, guerrillas who turn in weapons, or provide information leading to the capture of weapons, are given monetary rewards commensurate with the type and number of weapons.

[4] The sample below illustrates this category. Colt Industries, Hartford, Connecticut, manufacturers of M-16 rifles, furnished the following information on the disposition of weapons identified individually by their serial number:

WSN 725668, shipped 10 May 67, M/F USA support CMD, Saigon, Vietnam.

WSN 1209738, shipped 2 Oct. 68, M/F Naval Support Act. SAIGON, Vietnam.
WSN 1237980, shipped 29 Oct. 68, M/F 241 ORD SUP CO, CAN THO, Vietnam.
WSN 1396129, shipped 19 Feb. 69, M/F 250 ORD SVC CTR, NHA TRANG, Vietnam.
WSN 1207644, shipped 3 Oct. 68, M/T USN Support Act. SAIGON, Vietnam.

Last delivery point in United States records

Vietnam	581
United States military units during the 1960s with probable delivery to Vietnam	237
Unknown, but probably Vietnam	236
El Salvador	433
Other	101
Total	1588

In March 1981, the Nicaraguan Minister of Defense, Sandinista Directorate member Humberto Ortega, traveled to Hanoi. In a speech given there on March 11, Ortega said,

> "we sincerely thank the Vietnamese people and highly value their support for the heroic Salvadoran people . . . the fierce and bloody struggle in El Salvador requires the support of all progressive nations and forces throughout the world[3]"

Also in 1981, William Shawcross traveled to Vietnam and asked:

> "Had Vietnam been distributing any of the vast pile of weapons left by the Americans? Colonel Bui Tin acknowledged, in effect that it had. In Salvador? 'It's not fair to say the United States can help the Junta but we cannot help our friends. We do our best to support revolutionary movements in the world . . .'.[4]"

WSN 1181866, shipped 16 Sep. 68, M/F 241 ORD CO, CAN THO, Vietnam.
WSN 1237618, shipped 27 Oct. 68, M/F 241 ORD SUP CO, CAN THO, Vietnam.
WSN 1558102, shipped 31 May 69, M/F 230 ORD SVC CTR III ALC, SAIGON, Vietnam.
WSN 961419, shipped 19 Mar. 68, M/F USA depot, CAM RANH BAY, Vietnam.
WSN 728973, shipped 10 May 67, M/F USA SPT CMD, SAIGON, Vietnam.
WSN 1498058, shipped 23 Apr. 69, M/F 241 ORD SUP CO, CAN THO, Vietnam.
WSN 1208988, shipped 3 Oct. 68, M/F USN Support Act, SAIGON, Vietnam.

[1] General Motors manufactured the 3,000,000 series in the 1960s and records on weapons have since been destroyed; however, the majority of these weapons were shipped to Vietnam.

[2] The first shipment of M-16s to El Salvador from the United States began *after* January 16, 1981, in response to the realization that the FMLN's "final offensive" was being supplied through Nicaragua.

[3] Hanoi VNA in English March 11, 1981, reported in *FBIS*, Vol. IV, March 12, 1981, p. K8.

[4] *New York Review of Books*, September 14, 1981.

APPENDIX 6

Evaluation by the General Command of the FMLN Upon the First Phase of the General Offensive *

Farabundo Marti Front for National Liberation
to the Salvadorean People
to the People of Central America and the World

The General Command of the Farabundo Marti Front for National Liberation (FMLN) declares to all its sister peoples — those of Central America and of all the world — that the great operation comprised in the plan for the launching of the general revolutionary offensive, begun on the 10th of January, was carried out with success by the regular units, guerrilla and militia units of our popular revolutionary army.

Since the 10th of January, when this General Command of the FMLN issued the orders for the offensive 1 and 2, the revolutionary armed forces carried out the following actions.

In the central front — Modesto Ramirez

- Siege of the barracks of Chalatenango and the capture of the city during the 10, 11 and 12th days of January.
- Siege of the barracks of Paraiso and control of the access routes between this point and the city of Chalatenango during the 10th, 11th and 12th days of January.
- Attacks at enemy garrisons in the towns of San Antonio La Cruz, Arcatao, La Palma Patanera, San Francisco Morazan, San Antonio Los Ranchos, all in the province of Chalatenango.
- Taking of Suchitoto and siege of the enemy garrison on January 11 and 12.
- Capture of the city of Apopa on the 10th of January.
- Control of the communication routes between the Troncal del Norte highway and the towns of Aguilares, Suchitoto and San José Guayabal.

In San Salvador

- The capture of three radio stations on the 11th of January.
- Attack on the Air Force. The Air Force was unable to take off for several days.
- The taking of Soyapango, Mejicanos, Cuscatancingo and fighting in Ciudad Delgado, Tonacatepeque.
- Control of the highways of San Marcos, Santo Tomas and Comalapa.
- Harassment of the barracks of the National Guard and of the Rural Police.

Western Front — José Feliciano Amas

- Attack against the 2nd Infantry Brigade in the city of Santa Ana, a unit in which a company of soldiers led by two officers rose up and went over to fight with the people and the FMLN on the 10th of January, after burning the arsenal of the garrison.

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* Appendix 12, pp. 84-88 of the FMLN-FDR Booklet *El Salvador on the Threshold of a Democratic Revolutionary Victory*, distributed in the United States in English during February-March 1981 (complete text as in original).

Attacks against the barracks of the National Police, the National Guard and the Rural Police, on the 10th, 11th and 12th of January in Santa Ana.

Attack on the enemy garrisons in Metapan, in the province of Santa Ana, and the capture of the city on the 12th and 13th of January.

Attack on the enemy barracks and popular insurrection in the city of Chalchuapa, the second largest in the province of Santa Ana; attacks on the enemy garrisons in San Julian, Armenia, Acajutla, Sonsonate, Cara Sucia and Bola de Monte.

Attack on the Border Police, the 10th of January in Santa Ana.

In the Nearcentral Front   Anastacio Aquino

Attack and harassment of the National Guard barracks of Villa Victoria.

Capture and annihilation of enemy military units in Cinquera in the province of Cabanas on January 12th.

Harassment of enemy forces in Jutiapa on the 14th of January.

Capture of Santa Clara, on January 11th.

Continuous attacks in Tecoluca between the 10th and 15th of January.

Harassing actions against the barracks of the city of San Vicente from the 11th of January on.

Control of the Pan American Highway, from San Rafael Cedros to Apastepeque.

Control of the coastal highway from Puente de Oro to Zacatecoluca.

Eastern Front   Francisco Sanchez

Occupation of the city of Perquin and assault on the enemy garrison on the 11th of January, in the province of Morazan.

Occupation of the city of Osicala, Morazan, on January 13th.

Occupation of the cities of El Rosario, Corinto, Nueva Esparta Santa Rosa de Lima on the 12th of January (provinces of Morazan and La Union).

Siege and assault on the barracks at Gotera during the 13th, 14th and 15th of January.

Ambush at the top of Rio Seco of a powerful column of reinforcements marching to Gotera from the Central Barracks of the Infantry Brigade stationed in San Miguel. This column, which included armored vehicles and artillery, was stopped and in large part disorganized.

Ambush of reinforcements that were going from La Leona to the city of Puerto de La Union.

Diversionary actions were carried out in the city of San Miguel.

Control of the highways between San Miguel and Gotera, between San Miguel and Usulutan and El Delirio.

The high degree of coordination of those actions in the four war fronts, the strength of the attacks, the high moral of our fighters demonstrate clearly the high military capacity of our forces.

During several days, they managed to annihilate numerous positions, lay siege to and contain strategic military units of the genocidal Junta, stop its communications and supplies, intercept the reinforcements that were sent in the majority of the few cases where the enemy high command was able to move troops in the national territory.

The impact of the initial phase of the general offensive on the ranks of the puppet and assassin army, managed to draw from its ranks patriotic officers and soldiers of our people who are today fighting with their brothers, directing their arms against the real enemies of our people, a valiant attitude that is a vibrant call to those decent officers and soldiers who still remain within the structures of the fascist command.

Today, the Salvadoran workers, the entire people, can have proof that their vanguard, the FMLN, has known how to forge the instruments that will bring about a total revolutionary victory.

In San Salvador, where the elite strategic forces of the enemy are concentrated and where the massacre that the fascist dictatorship has carried out for several years reached its highest volume in 1980, the working masses most conscious carried out with great valor the call for the strike. The FMLN recognizes that, except for the attack on the central base of the Air Force, it did not manage to strike the forceful military blows in the capital that were needed to sustain the full development of the strike and to set off the popular insurrection.

The genocidal government has tried to take advantage of this fact through its delirious and lying propaganda. Other voices have also been heard making superficial judgments about the supposed refusal of the popular masses in the capital to take the road of revolution. We are absolutely certain that the heroic and combative people of San Salvador will give full lie to such speculations and we call upon them to prepare for the coming battles, at the same time that we call upon the ranks of our member organizations of the FMLN and their revolutionary armed forces to organize in all details the coming great revolutionary actions in San Salvador.

The Junta has had no recourse but to seek the support of mercenaries and launch a lying campaign of propaganda, backing itself with the muzzling of the means of communications, including permanently tying together all the radio stations.

But this will not permit it to make up for its losses, nor recover the initiative in the war. Our forces, within the context of the general offensive, are now carrying out a necessary and previously planned movement that guarantees the continuation of the offensive to new and higher phases.

The military-Christian Democratic Junta and its murderous armed forces were rocked by the energetic initiation of our general offensive. Desperately, they seized upon the intensification of the repressive terror against an unarmed population as other rotten dictatorships had done as their end approached. They established the curfew and the Martial Law with this end to this end.

The Government of the United States rushed to facilitate and increase the sending of military advisors, arms and ammunition to help the Junta maintain itself and extend the massacre against our people. At the same time, the imperialists are threatening the Nicaraguan people and, with the new interventionist steps they have taken, are shaping up the serious danger of the extension of the conflict to all of Central America, thus threatening the peace of the world.

The FMLN, at the head of the heroic Salvadoran people, will continue advancing in its struggle to the final liberation of our people, without taking fright before the stubborn imperialist intervention.

The people of Sandino, who opened the future of Central America, will not kneel before the imperialists. The people of Central America, who are now living in the most important hour of their history, will close ranks to prevent the sad murderous designs of imperialism from coming to pass.

Nine of every ten United States made bullets that come into the hands of the Junta go directly to spill the blood of the unarmed population, and are designed to kill children, women and the elderly. Each new step that imperialism takes in its military escalation against the Salvadoran people, increases the threat against the Nicaraguan revolution and against peace in Central America and the Caribbean, and threatens the peace of the world.

We are sure that the peoples of the world and the governments that love peace and defend the principles of self-determination, will raise their powerful voices and set in motion their actions of solidarity to hold back the military escalation of United States imperialism against the Salvadoran people.

Forward fighters, forward guerrillas and militias, forward companeros, workers and patriotic soldiers, continue the battles that will bring peace, justice, liberty and true independence to our native country.

United in the fight to the final victory!
Revolution or death, we will win!

Salvador Cayetano CARPIO (Marcial)

Schafik Jorge HANDAL

Roberto ROCA

In representation of Joaquin VILLALOBOS   Juan Ramon MEDRANO

Ferman CIENFUEGOS

January 21, 1981

APPENDIX 7

Sources

Many of the materials used in this study are readily available in major libraries. In addition to magazines and newspapers, examples of such readily available materials include the *Daily Report* (Volume VI, Latin America) of the Foreign Broadcast Information Service (cited herein as *FBIS*), which records in English translation significant news items from throughout the world. Also widely available are the annual volumes of *American Foreign Policy: Current Documents* published by the Office of the Historian, Department of State, Washington, DC, and other United States Government Publications.[1]

Unfortunately, many other primary sources for the study of contemporary history are not as readily available. As the Central American conflict has continued, the number of people who have discussed their experiences and direct participation in the conflict has increased. Two separate appendices to this study are dedicated to such people — frequently among the most valuable contributors to the understanding of contemporary events (see Apps. 3 and 4).

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[1] Examples of recent publications related to this one include:

"Sustaining a Consistent Policy in Central America: One Year After the National Bipartisan Commission Report", Report to the President from the Secretary of State, United States Department of State, Special Report No. 124, April 1985.

"The Soviet-Cuban Connection in Central America and the Caribbean", Departments of State and Defense, Washington, DC, March 1985.

"News Briefing on Intelligence Information on External Support of the Guerrillas in El Salvador", Ambassador Thomas R. Pickering, El Salvador, and General Paul F. Gorman, Commander-in-Chief, United States Southern Command at the State Department, Wednesday, August 8, 1984, Washington, DC.

"Background Paper: Nicaragua's Military Build-up and Support for Central American Subversion", Departments of State and Defense, Washington, DC, July 18, 1984.

Then there are written records. Between the day in November 1980 when Salvadoran police found a cache of documents hidden in the walls of the home of the brother of the Secretary General of the Salvadoran Communist Party, and the day in April 1985 when Salvadoran Army units captured Commander Nidia Diaz along with archives of the Central Committee of the PRTC after a battle near a regional command post, literally thousands of Salvadoran guerrilla documents — including letters, diaries, travel records, weapons inventories and related papers — have been captured. These now include, in addition to the PCES and PRTC files mentioned above, major records of the Peoples Revolutionary Army (ERP) captured in January 1981. Three of the five major components of the FMLN may, therefore, be studied through their own words and records.

These FMLN documents constitute an invaluable original source and will be made available to scholars and other interested analysts in a manner similar to that of the documents obtained in Grenada which were deposited in the National Archives.[1]

Finally, some sources have been consulted but cannot yet be released to the public for reasons of national security. They include:

Telegrams, memoranda, reports and other records retained by the Foreign Affairs International Management Center (A/FAIM) and the Bureau of Inter-American Affairs (ARA), Department of State.

Telegrams to and from United States diplomatic posts in Central America, especially Nicaragua, including NODIS and other captioned records, as maintained in the Information Management Section of the Executive Secretariat (S/S-I), Department of State.

Records of the United States intelligence community with both technical and human source reporting, including information from Nicaraguans from all walks of life, members of the Nicaraguan intelligence and security organizations, as well as full debriefing by various security services in the region of captured Salvadoran insurgents and defectors.

One final caveat. The fact that an open citation is given for a particular event does not imply the absence of corroborating classified information. In some cases, unclassified sources were sought out to protect classified ones.

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[1] Copies of 19 documents from the PCES and ERP caches were made available to the press by the Department of State, accompanied by English translations, on February 23, 1981.

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